

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

DOCKET NO. 1:06-CR-00044-01

vs.

MICHAEL WAYNE HESHELMAN,

Defendant.

EXCERPT TRANSCRIPT OF JURY TRIAL
TESTIMONY OF BRYCE HENRY SHERWOOD
BEFORE THE HONORABLE JANET T. NEFF
UNITED STATES DISTRICT JUDGE
GRAND RAPIDS, MICHIGAN
June 4, 2009

Court Reporter: Glenda Trexler
Official Court Reporter
United States District Court
685 Federal Building
110 Michigan Street, N.W.
Grand Rapids, Michigan 49503

Proceedings reported by stenotype, transcript produced by
computer-aided transcription.

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12 * * * * *

13 Grand Rapids, Michigan

14 June 4, 2009

15 EXCERPT OF PROCEEDINGS

16 BRYCE HENRY SHERWOOD

17 *(The oath was administered)*

18 *THE WITNESS:* I do.

19 *THE CLERK:* Be seated, please. State your name for
20 the record, please.

21 *THE WITNESS:* Bryce Henry Sherwood.

22 DIRECT EXAMINATION

23 *BY MR. MEKARU:*

24 Q. All right. Mr. Sherwood, where do you live?

25 A. Mulberry, Florida.

1 Q. Are you from the West Michigan area?

2 A. Yes, I am.

3 Q. Originally, I guess, born and raised here? Have you lived
4 here for a while?

5 A. Yes, sir.

6 Q. Approximately how long did you live in West Michigan?

7 A. Thirty-five to 40 years.

8 Q. And then how long ago did you move to Florida?

9 A. I've been in Florida for five years.

10 Q. Could you speak up, sir? Or speak into the mic. That
11 might help.

12 A. I've lived in Florida for five years.

13 Q. Okay. Now, Mr. Sherwood, were you indicted by a federal
14 grand jury in February of 2006?

15 A. Yes, sir.

16 Q. Now, you may not have known about the certain charge then,
17 but were you eventually shown a copy of the Indictment and
18 advised that you were being charged?

19 A. Yes.

20 Q. Sometime in December of 2008?

21 A. Correct.

22 Q. All right. And as it relates to that charge, were you
23 indicted along with Mr. Michael Heshelman?

24 A. Yes.

25 Q. And Dennis Mickelson?

1 A. Yes.

2 Q. So the three of you were named in the indictment, and
3 there was also an indication that maybe others that were
4 unnamed or people who may be known or unknown to the
5 grand jury?

6 A. Yes.

7 Q. Have you pled guilty to a charge as it relates to your
8 indictment?

9 A. Yes.

10 Q. Okay. Did you sign a plea agreement?

11 A. Yes, I did.

12 Q. You have before you some binders. I want you to turn to
13 what's marked as Volume II. It might be the other one.

14 THE COURT: It should be right down at the bottom
15 there.

16 MR. MEKARU: The white one.

17 THE COURT: It says "Volume II" on the bottom.

18 MR. MEKARU: And on the side also, on the end of the
19 binder will be a number.

20 Q. (BY MR. MEKARU) Okay. Could you please turn to tab
21 number 22. Are you there?

22 A. I'm there.

23 Q. Okay. Do you recognize the exhibit that's been marked as
24 Number 22?

25 A. Yes.

1 Q. What is it?

2 A. It's my plea agreement.

3 Q. Would you turn to the last page, page 10 of 10 of
4 Exhibit Number 22.

5 Does that have your signature?

6 A. Yes, it is.

7 Q. Did you sign it on May 20th, 2009?

8 A. Yes.

9 MR. MEKARU: And I would move for the admission
10 of Exhibit Number 22.

11 THE COURT: Mr. Tracy?

12 MR. TRACY: No objection, Your Honor.

13 THE COURT: It's admitted.

14 MR. MEKARU: All right. May we publish this, please.

15 Q. (BY MR. MEKARU) All right. I just want to go over this
16 briefly so we all have an understanding of your plea agreement.

17 In paragraph 1 you're agreeing to plead guilty to Count 1
18 of the Indictment, right?

19 A. Yes.

20 Q. Count 1 is the conspiracy charge, conspiracy to commit
21 wire fraud?

22 A. Yes.

23 Q. All right. Now, there's an additional provision here that
24 relates to a motion that was heard by this Court where there
25 was some question about trying to get the charges dismissed,

1 right?

2 A. Correct.

3 Q. And as part of your plea agreement you reserved the right
4 to have that issue reviewed by the next court, the Court of
5 Appeals?

6 A. Yes.

7 Q. Is that essentially what that other language is?

8 A. Yes. Yes.

9 Q. All right. Paragraph 2. Paragraph 2 just outlines the
10 elements of the offense and that you understood them.

11 Paragraph 3 outlines some penalties that may associate for
12 you on that charge, and then paragraph 4 is your agreement to
13 pay some restitution in this case.

14 The next paragraph.

15 *THE CLERK:* Mr. Mekaru, remember to keep your voice
16 up for the jurors.

17 *MR. MEKARU:* Sorry. Maybe I'll do this again.

18 Q. (BY MR. MEKARU) All right. Paragraph 5 is your agreement
19 to pay some forfeiture, 6 agreeing to disclose where money
20 might be now.

21 More important, the most important part of what we're
22 getting at now, I think, is paragraph 7. Paragraph 7, you
23 agreed to cooperate with the U.S. Attorney's Office and the FBI
24 and any other law enforcement agency, correct?

25 A. Correct.

1 Q. All right. And that includes either meeting with the FBI
2 and disclosing information or testifying at trial if need be,
3 correct?

4 A. Correct.

5 Q. And you're testifying here today in part because of your
6 commitment in the plea agreement?

7 A. Yes.

8 Q. All right. Why don't we go to the next page.

9 Okay. This is a continuation of your cooperation
10 provisions. There's a provision regarding how your sentence
11 might be computed.

12 Go down to the next page. The next page. That paragraph
13 that dealt with some of the -- your rights on appeal and about
14 your sentence. Essentially you decided to let the judge
15 sentence you, but you're not going to ask that her sentence be
16 reviewed by the Court of Appeals.

17 A. Right.

18 Q. Is that about what it's providing?

19 A. Yes.

20 Q. Okay. All right. Now, this is what you're getting, I
21 guess, in exchange for your cooperation.

22 Would that be fair to say?

23 A. Yes.

24 Q. Paragraph 10, the U.S. Attorney's Office is agreeing to
25 move to dismiss all the other charges against you --

1 A. Yes.

2 Q. -- right? I mean, this was a fairly lengthy Indictment,
3 so there might be some 40-plus charges, right?

4 A. Correct.

5 Q. Okay.

6 THE COURT: Mr. Mekaru, one thing I would interject
7 here, it should be clear that Mr. Sherwood was represented by
8 counsel throughout these proceedings. Correct?

9 MR. MEKARU: Yes. Yes, ma'am.

10 Q. (BY MR. MEKARU) All right. Paragraph -- subparagraph B
11 deals with a way your sentence could possibly be reduced. Is
12 that about right?

13 A. Yes.

14 Q. Now, in terms of your sentence, is it possible that there
15 really are a couple ways in which your sentence could be
16 reduced, one is by accepting responsibility for your crime?

17 A. Yes.

18 Q. And the other is if the government moves to reduce your
19 sentence based on your cooperation?

20 A. Yes.

21 Q. All right. And you know all this based on your counsel's
22 advice to you and telling you about how the law kind of works
23 for your sentencing?

24 A. Yes.

25 Q. All right. So at this point would it be pretty fair to

1 say that the decision to move for departure, though, really
2 rests with the United States Attorney's Office; is that right?

3 A. Yes.

4 Q. But even if we do move for a reduction, it's still up to
5 the judge, in this case Judge Neff, to decide whether to give
6 you a reduction or reduce your sentence, right?

7 A. Correct.

8 Q. Okay. Let's go to next page, please.

9 That's a continuation of that paragraph and just an
10 acknowledgment that your information that's not known to the
11 government prior to your cooperation, prior to your proffer,
12 can still be used to help compute your sentence as it comes
13 time for sentencing, right?

14 A. Right.

15 Q. Okay. Next page.

16 All right. This is just an acknowledgment. This is an
17 agreement between yourself and your attorney and the
18 United States government, correct?

19 A. Correct.

20 Q. But it does not necessarily bind this Court, Judge Neff?

21 A. That's correct.

22 Q. Okay. Paragraph 12 is that it's limited to, again, to the
23 United States Attorney's Office and not any other prosecuting
24 authority.

25 Go to next page. And the next page.

1 All right. And this is a copy of the signature. You
2 indicated this is your signature in the middle?

3 A. Yes.

4 Q. And that's your attorney's signature below?

5 A. Yes.

6 Q. All right. And as the judge indicated, you were
7 represented through this whole proceeding?

8 A. Correct.

9 Q. All right. Okay. Now let me see if I can summarize here
10 where we're at.

11 Mr. Sherwood, so you're testifying here today really with
12 the hope and with the understanding, first of all, the
13 understanding that the government has agreed to reduce the
14 number of charges you're facing, right?

15 A. Yes.

16 Q. Which could have the potential of reducing the amount of
17 time that you ultimately face, right?

18 A. Yes.

19 Q. You're also testifying today with the hope that Judge Neff
20 and with the government's motion will reduce your sentence,
21 right?

22 A. Yes.

23 Q. So you really have some incentive here to testify; would
24 that be fair to say?

25 A. Yes.

1 Q. Okay. But you also signed a proffer agreement?

2 A. Yes.

3 Q. And a plea agreement. So there are two agreements here.
4 Again, the proffer agreement is another agreement that we won't
5 use your words against you essentially?

6 A. Correct.

7 Q. What's the effect of you lying at this point on the
8 proffer agreement and on the plea agreement?

9 A. I would lose both the proffer agreement and the
10 plea agreement.

11 Q. So the protection of the proffer agreement would go away?

12 A. Yes.

13 Q. And all your statements could be used against you?

14 A. Correct.

15 Q. Okay. And you would lose the protection of the
16 plea agreement and all the charges could be brought back again?

17 A. Yes.

18 Q. All right. Now, Mr. Sherwood, do you know
19 Pastor Alan Moody?

20 A. Yes, I do.

21 Q. How do you know Pastor Alan Moody?

22 A. I met him at church, at First Baptist Church of
23 Middleville.

24 Q. Did you eventually join that church?

25 A. Yes, I did.

1 Q. Now, were you aware at some point that Pastor Moody had --
2 and his family -- had come into some money?

3 A. Yes.

4 Q. And as far as you know, did they come into that money
5 prior to you joining the church?

6 A. Yes.

7 Q. And as far as you know, roughly how much time passed
8 between their receiving the money and you joining?

9 A. I do not know.

10 Q. Less than a year or so?

11 A. No, it was longer than that. I'm not sure.

12 Q. All right. Nonetheless, that had all happened before you
13 joined the church?

14 A. Yes.

15 Q. And when you joined the church, this is that First Baptist
16 Church in Middleville, at that point in time were you
17 representing yourself to be some sort of an investment advisor?

18 A. Yes.

19 Q. Financial advisor?

20 A. Yes.

21 Q. Were you in fact a genuine investment advisor?

22 A. No.

23 Q. That was a lie?

24 A. Yes.

25 Q. And did you have a discussion with Alan Moody,

1 Pastor Alan Moody, about investment opportunities that he could
2 participate in to help him get a better rate of return?

3 A. Yes.

4 Q. And did you present him with a plan for his money?

5 A. Yes.

6 Q. Was this investment -- what was this investment plan for
7 Pastor Moody's money?

8 A. I introduced him to Michael Heshelman with the objective
9 of increasing his yield and that there would be a lot more
10 money made working with Michael than what he was currently
11 making at the time.

12 Q. Well, what was the investment itself?

13 A. The investment itself was presented as a bond opportunity
14 in Europe, a trade known as a buy/sell agreement, and that they
15 would buy bonds at a lower price and sell them at retail.

16 Q. Now, as far as you know, does that, as a strategy, as an
17 investment strategy, does something like that even exist?

18 A. Yes, on the United States bond markets people buy and sell
19 bonds all day long.

20 Q. Okay. What's the old adage: Buy low, sell high?

21 A. Yes.

22 Q. That's how you make a profit?

23 A. Correct.

24 Q. Okay. But as much as that might exist as a strategy
25 overall, was the plan that you were presenting to Pastor Moody,

1 that you and Michael Heshelman were presenting, was that a
2 legitimate investment?

3 A. No.

4 Q. Well, then what was going to happen to Pastor Moody's
5 money?

6 A. It was going to be sent to an attorney's account in
7 Florida, and it would be managed from there, from the
8 attorney's account.

9 Q. When you say -- what do you mean by managed?

10 A. I would say it was supposed to have gone into a secured
11 account that was held in an escrow account, and then there was
12 supposedly money that would be made trading in bonds. That the
13 yield was out of range for what could happen, and the reality
14 was the money was going to go there and be used for other
15 purposes.

16 Q. Okay. So jumping back and forth here, and I realize
17 there's a story that's being told to Pastor Moody about what's
18 going to supposedly happen to the money, and then there's the
19 reality of where the money actually went. Would that be fair
20 to say?

21 A. Yes.

22 Q. Okay. So let's focus first on what story is being told to
23 Pastor Moody.

24 What was Pastor Moody being told about what is going to
25 happen to his investment?

1 A. He was told his funds would be held in a secure account
2 that would require two signatures to be moved out of that
3 account.

4 Q. Okay. And then once that money went into that secure
5 account, what was -- the investment you said would then be to
6 buy and sell these bonds?

7 A. Yes, that's what was told to Mr. Moody.

8 Q. Well, if the money is supposed to remain in the attorney
9 trust account or in this account, how would the money then be
10 used in these investment transactions?

11 A. It couldn't be.

12 Q. According to what was represented to Pastor Moody, were
13 these funds being used as some sort of collateral?

14 A. I don't know. They were not used -- I don't know what
15 they were used for.

16 Could you repeat the question, please?

17 Q. Sorry. Again I'm focusing here on what Pastor Moody is
18 being told about what is supposed to happen to his money.

19 A. He was told that his money was going to stay in the
20 attorney escrow account, a trust account to be held for
21 the -- for collateral for the purchase of buy and sell 10-year
22 bonds.

23 Q. Okay. So again let me see if I understand this. So
24 Pastor Moody's money was supposed to stay in this attorney's
25 account and be used as collateral for leverage to do these

1 other transactions?

2 A. That's correct.

3 Q. All right. And did Pastor Moody eventually agree to
4 engage in this investment plan?

5 A. Yes, he did.

6 Q. Did he first send in December of 2000 a million dollars?

7 A. Yes.

8 Q. In March of 2001 did he again agree to send some more
9 money?

10 A. Yes.

11 Q. How much?

12 A. \$1.5 million.

13 Q. And was he given instructions on where to send the money?

14 A. Yes.

15 Q. Where was he supposed to send it?

16 A. To an Attorney Ken Warner's escrow account.

17 Q. Now, this attorney, Ken Warner, was this attorney
18 Mr. Moody's attorney?

19 A. No.

20 Q. Was he your attorney?

21 A. No.

22 Q. Whose attorney was he?

23 A. Michael's attorney.

24 Q. Where was Ken Warner located?

25 A. In Miami, Florida.

1 Q. And at this time where was Mr. Heshelman?

2 A. Either in Florida, in Sarasota, Florida, or Battle Creek,
3 Michigan.

4 Q. Okay. Did he also spend time in New York?

5 A. Yeah, and also New York.

6 Q. And what about in Europe?

7 A. He had spent time in Zurich, and he had told me he had
8 been in London, Madrid, Spain, and cities in Germany.

9 Q. Okay. So as far as you know, was he spending a fair
10 amount of time in Europe?

11 A. Yes.

12 Q. All right. So once the money went in and Pastor Moody
13 began to ask about the status of his investment, what was he
14 told?

15 MR. TRACY: Your Honor, foundationally there's a lot
16 of "What was he told?" without who is telling him. We're not
17 getting the foundation of who is having these conversations.

18 THE COURT: That's fair enough.

19 Mr. Mekaru.

20 MR. MEKARU: Okay. Yeah, I think that makes sense.

21 Q. (BY MR. MEKARU) Let's focus on breaking it down to what
22 you're telling Pastor Moody. And I gather at some points in
23 time you may have been a party to conversations where
24 Michael Heshelman is also talking to Pastor Moody. True?

25 A. Yes. Yes.

1 Q. All right. So what were you telling Pastor Moody about
2 the status of his investment?

3 A. I had --

4 THE COURT: I'm sorry.

5 JUROR NUMBER 33: A little closer to the microphone
6 maybe?

7 THE COURT: Yes, please slide it forward.

8 MR. MEKARU: Please slide it forward. Thank you.

9 THE WITNESS: Okay.

10 MR. MEKARU: Much, much better.

11 Q. (BY MR. MEKARU) The question was: What were you telling
12 Pastor Moody about his investment once the money went in?

13 A. I repeated the -- I would talk to Michael, and he would
14 tell me what he was doing, and I would relay that message on to
15 Alan.

16 THE COURT: Mr. Sherwood, I would ask you when you
17 refer to Michael, would you please make it clear who Michael
18 is.

19 THE WITNESS: Yes, ma'am. Michael Heshelman would
20 tell me what he was doing, and I would relay that message on to
21 Alan.

22 Q. (BY MR. MEKARU) All right. So then what sort of
23 information was being passed on to Pastor Moody?

24 A. That there were different deals being done, that there
25 would be a different transaction was taking place than what was

1 originally said. That they were trying to do -- he was
2 attempting to do other deals that would make the money and
3 restore the money to Mr. Moody.

4 Q. Now, were there multiple conversations with Pastor Moody
5 about the status of his money?

6 A. Yes.

7 Q. So regular conversation about what was happening with his
8 money?

9 A. Yes.

10 Q. And what were you telling Pastor Moody about the status of
11 his money and the status of the deal?

12 A. I was telling him that Michael was
13 working -- Michael Heshelman was working on completing the
14 transactions, multiple different transactions, and that he
15 would keep us informed of what was going on in Europe at the
16 time. In Zurich or whatever city he was in.

17 Q. Was Pastor Moody given some indication that as much as he
18 was working on it, that it was close to being closed, close to
19 being finished, that his deal was almost done?

20 A. Yes. Yes, sir.

21 Q. All right. And was the statement that you made that
22 Michael Heshelman is trying to work on the deal, trying to
23 close the deal and -- trying to close the deal, was that
24 truthful or was that a lie?

25 A. He had -- I had relayed the message from Michael, and I

1 told that to -- from Michael Heshelman, and I related that on
2 to Alan Moody.

3 Was it a lie? I believe it was a lie, that there was no
4 deal.

5 Q. And the statement that the money is coming, that the money
6 is almost -- is coming next week, is coming in the next day or
7 so, was that truthful or was that honest? Truthful or honest
8 or a lie?

9 A. That was a lie.

10 Q. Now, what about some conversations that you participated
11 in where Mr. Heshelman is also talking to Pastor Moody? What
12 was Mr. Heshelman telling Pastor Moody about his investment,
13 about the status of his investment?

14 A. Mr. Heshelman was telling him that he was near to closing
15 several different transactions and that the original
16 transaction did not proceed, but he was -- he had other
17 transactions he was doing. That he believed that he was about
18 to finish a major transaction that would restore the funds and
19 make money for Mr. Moody.

20 Q. And were there multiple communications between
21 Mr. Heshelman and Mr. Moody that you participated in?

22 A. I believe so, yes.

23 Q. Was anything in common about the nature of those
24 communications?

25 A. They were all attempting to keep Mr. Moody working with

1 Mr. Heshelman and myself.

2 Q. Essentially to continue to delay things?

3 A. Yes, continue to delay things.

4 Q. And continue to delay his expectation that his money was
5 coming?

6 A. Yes.

7 Q. Or was Pastor Moody asking for his money back?

8 A. I believe he had asked for his money back at a meeting we
9 had in Battle Creek, and then I believe -- I just can't exactly
10 remember, but he -- I can remember him asking about the status
11 of his money and when he would get it back, and that -- but I
12 cannot remember the exact location where we were when he asked
13 for it back.

14 Q. Because eventually he did take some action to try to get
15 some monetary recovery, though, right?

16 A. Yes, he did.

17 Q. I mean, he -- he took some action to foreclose the home
18 you were living in.

19 A. That's correct.

20 Q. And -- let's see.

21 A. Yes.

22 Q. Sorry. There were actually two mortgages that were given
23 to Pastor Moody. Is that true?

24 A. True.

25 Q. There was first a mortgage that you gave him that you

1 signed, right?

2 A. Yes.

3 Q. But at the time you weren't actually on the deed of the
4 home, it was set into trust, it was in your wife's name, but
5 nonetheless, that first mortgage was not valid, right?

6 A. Correct. Correct.

7 Q. And you knew at the time that you gave it to him that it
8 really wasn't a valid mortgage?

9 A. Correct.

10 Q. So you gave him a worthless piece of paper essentially?

11 A. Yes.

12 Q. And that was to induce him to invest another 1 1/2 million
13 dollars?

14 A. Yes.

15 Q. And when he tried to file it and found out that it wasn't
16 a genuine mortgage, did he come back to you and demand yet
17 another one from you and your wife?

18 A. Yes.

19 Q. And you gave him that?

20 A. Yes.

21 Q. Did you tell him that you had already gotten another
22 mortgage on that home?

23 A. No.

24 Q. That was another lie or omission?

25 A. Yes.

1 Q. That house that was mortgaged, this was the residence you
2 were living in?

3 A. Yes.

4 Q. How much was this house worth?

5 A. Eight hundred to nine hundred thousand dollars.

6 Q. And the house at some point when you bought it was paid in
7 full?

8 A. Yes.

9 Q. We'll come back to this, but the money for that house, did
10 that come from yet another investor?

11 A. Yes.

12 Q. So this is somebody else's money that you stole and used
13 to buy this house?

14 A. Yes.

15 Q. And then how much of a mortgage did you take out on the
16 house with the bank?

17 A. I believe it was \$400,000.

18 Q. So let me see if I understand this. You paid cash for
19 this house that was roughly a million dollars?

20 A. Yes.

21 Q. When you say 800 or 900, was it closer to a million or
22 thereabouts?

23 A. Probably.

24 Q. And you took out a mortgage, you got some more cash out of
25 the house?

1 A. Yes.

2 Q. Did you pay anything against that mortgage, make any
3 payments?

4 A. No. Not much.

5 Q. So this house was -- you got a million in cash to pay for
6 a house you didn't have, and then you got from the bank another
7 400-something thousand dollars?

8 A. Yes.

9 Q. And then you gave a mortgage first to Pastor Moody that
10 was not genuine, and eventually when he did get one, he was
11 second in line?

12 A. Yes.

13 Q. Now, do you know Dennis Mickelson?

14 A. Yes, I do.

15 Q. He was also indicted with you?

16 A. Yes, he was.

17 Q. Did Dennis Mickelson play a part in selling Pastor Moody
18 on this investment?

19 A. Yes.

20 Q. What was his role?

21 A. I would meet people and introduce them to Dennis, and he
22 would talk with the client and proceed to verify that they had
23 the money, and then he would work with us to close the deal,
24 and the money would be sent to Kenneth Warner's escrow account.

25 Q. So he helped pitch the deal?

1 A. Yes.

2 Q. Did he also act as some sort of reference?

3 A. Yes.

4 Q. So at times was he acting as a -- someone who was working
5 with this investment group and other times acting as an
6 investor who was successful?

7 A. Yes.

8 Q. And did other people also play a part in not necessarily
9 trying to pitch the deal on the front end, but on the back end
10 did other people play a part in trying to delay things, to
11 delay the demand for money?

12 A. I think it was myself and Dennis and
13 Michael Hesh -- Dennis Mickelson and Michael Heshelman were the
14 ones that would keep the delay going.

15 Q. Do you know Ron Featherstone?

16 A. Yes, I know Ron Featherstone.

17 Q. Okay. Who is Ron Featherstone?

18 A. He is -- he was an officer of Michael's company.
19 Michael Heshelman's company.

20 Q. Did you have conversations with him?

21 A. Yes.

22 Q. Were you aware of what he was doing as part of all this?

23 A. No.

24 Q. Do you know his wife?

25 A. No, I do not.

1 Q. All right. In addition to Pastor Moody, did you make this
2 same pitch on this investment scheme to others?

3 A. Yes.

4 Q. Let's go through a list, then.

5 Did you participate in the presentation to a Brian Turner?

6 A. No.

7 Q. How about a Timothy Oliver?

8 A. No.

9 Q. Paul Ramsey?

10 A. Yes.

11 Q. Okay. And what was your participation with Paul Ramsey?

12 A. I had introduced him to Michael Heshelman for the purpose
13 of placing money with him to create a higher-yield income from
14 those funds.

15 Q. All right. So he was essentially presented with the same
16 investment opportunity, that he could make more money and get a
17 greater return?

18 A. Yes.

19 Q. Was the investment instrument something similar to what
20 was presented to Pastor Moody?

21 A. Yes.

22 Q. Was that truthful and honest?

23 A. No.

24 Q. Or was that a lie?

25 A. It was a lie.

1 Q. How about Allen Clyde?

2 A. Yes, I introduced him to Michael Heshelman as well.

3 Q. And what was Allen Clyde told about this investment?

4 A. That he would receive a significant yield far exceeding
5 what he could earn in the bond or equity markets.

6 Q. And was that a lie?

7 A. Yes.

8 Q. And how about Stephen Williams?

9 A. I don't know if I ever spoke with Stephen Williams
10 directly, but he was represented by an accountant named
11 Pierre Labauve.

12 Q. Pierre Labauve. And what was Pierre Labauve told about
13 this investment?

14 A. That there would be a significant yield, the same as we
15 had told the other investors.

16 Q. And that, again, was a lie?

17 A. Yes.

18 Q. All right. Now, did Mr. Ramsey send money and invest with
19 you and Michael Heshelman?

20 A. Yes.

21 Q. Did Mr. Clyde?

22 A. Yes.

23 Q. And Mr. Williams?

24 A. Yes.

25 Q. Now, when all of these people invested -- Mr. Ramsey,

1 Mr. Williams, Mr. Clyde -- did you receive some sort of money?

2 A. Yes, I did.

3 Q. Did other people who also had helped pitch this to
4 Mr. Ramsey, Mr. Clyde, and Mr. Williams, did they also receive
5 some money?

6 A. Yes.

7 Q. Did Mr. Mickelson also participate with any of these
8 people?

9 A. Yes, he did.

10 Q. Did you talk about the fact that you were receiving money
11 with Mr. Mickelson or Mr. Heshelman? Did you -- did everyone
12 know that everyone was getting money?

13 A. Yes.

14 Q. And all this money that was sent by Mr. Ramsey, Mr. Clyde,
15 and Mr. Williams, did it go into Ken Warner's attorney trust
16 account?

17 A. Yes, it did.

18 Q. Did you have the authority to tell Ken Warner, "Send me
19 money"?

20 A. No, I did not.

21 Q. So how did you get your money?

22 A. I would tell Mr. Heshelman -- we had agreed that there
23 would be payments to us upon the completion when the money was
24 sent into the attorney's escrow account.

25 I did one time pass along a note, an email to Mr. Warner

1 indicating that I had received direction from Mr. Heshelman to
2 pay out certain payments. I believe that's part of the package
3 here.

4 Q. Okay.

5 A. But I did not have authority over the account.

6 Q. So would it be fair to say you always had to ask
7 Michael Heshelman to get your money?

8 A. Yes.

9 Q. And you made reference to some sort of email or some sort
10 of document.

11 A. Yes.

12 Q. Can you flip your binder to Exhibit Number 3. I'm sorry,
13 the other binder.

14 Are you there?

15 A. Yes.

16 Q. Okay. Do you recognize Exhibit Number 3?

17 A. Yes, I do.

18 Q. What is Exhibit Number 3?

19 A. It's my email to Ken Warner to pay in six different wire
20 transfers.

21 Q. All right. Could you put that up, please.

22 All right. Beginning at the top with your name, and is
23 that your address?

24 A. Yes. Yes, it is.

25 Q. And it's dated March 2nd, 2001?

1 A. Yes.

2 Q. Is it sent on or about that time?

3 A. Yes, sir.

4 Q. And it says, "To Ken." Who is that?

5 A. Ken Warner.

6 Q. And the reference here is "Michael is in England . . ."

7 Who is Michael?

8 A. Michael Heshelman.

9 Q. ". . . and has, I believe, sent you a partial list of
10 people who are to receive payments today."

11 How did you know that?

12 A. I had spoken with Mr. Heshelman, and he had given me
13 directions of who to pay, and I wrote up the email.

14 Q. So this list that you're putting together is in
15 consultation with Michael Heshelman?

16 A. Yes.

17 Q. Now, "The funds should be in your account today. There
18 will be a \$1,500,000 deposit made coming from Northern Trust."

19 A. Yes.

20 Q. Now, the money, the 1.5 million, actually came in a little
21 later than March 2nd. So was there a little bit of delay
22 between this fax and the money, or was this just prepared
23 earlier?

24 A. I do not know.

25 Q. And the 1.5 million, whose money was that?

1 A. Mr. Moody's.

2 Q. "Here are the people who are to receive funds."

3 "Paul Ramsey."

4 Is that the same Paul Ramsey who invested money with you
5 and Michael Heshelman?

6 A. Yes.

7 Q. Do you remember how much money Mr. Ramsey invested?

8 A. Two -- over \$2.5 million.

9 Q. Any idea why Mr. Ramsey is getting \$100,000 of
10 Pastor Moody's money?

11 A. He was demanding an interest payment on his money.

12 Q. Larry Hall gets \$80,000. Any idea why Mr. Hall is getting
13 \$80,000?

14 A. He was also an investor with Michael Heshelman.

15 Q. Pierre Labauve. You had said that Pierre Labauve was the
16 attorney or accountant or somehow related to Stephen Williams?

17 A. Yes.

18 Q. Why is Pierre Labauve getting \$89,600?

19 A. He was receiving also an interest payment.

20 Q. There's a parenthetical there. "You have his banking.
21 Also, he owes me \$10,400."

22 What's that about?

23 A. I cannot remember.

24 Q. Next there's "ICW Dream Homes, Larry Telford/
25 VIP Services."

1 Why is Mr. Telford and ICW receiving \$60,000?

2 A. Mr. Telford is also an investor with Mr. Heshelman. And
3 it was an interest payment that was being demanded.

4 Q. Now, Larry Telford, did Larry Telford have an association
5 with another, another individual by the name of Peter Fodor or
6 Peter Fodor?

7 A. Yes.

8 Q. I think that's F-O-D-O-R. Does that sound about right?

9 A. Yes.

10 Q. Okay. I'm just spelling it for the court reporter.

11 All right. You had mentioned before that another investor
12 had given you around a million dollars to invest and that you
13 used that money to buy your house.

14 A. Yes.

15 Q. Was that somehow related to --

16 A. Yes, it is. It came from Larry Telford.

17 Q. So you said that Mr. Telford was investing with
18 Michael Heshelman?

19 A. Correct.

20 Q. So were there -- was this one deal or two deals?

21 A. Two deals.

22 Q. So in one deal, Mr. Telford and Mr. Fodor invested with
23 you around a million dollars?

24 A. Yes.

25 Q. And how much did they invest with Michael Heshelman?

1 A. I believe it was \$760,000.

2 Q. And the presentation to Mr. Telford, was it similar to,
3 the same presentation that was made to Mr. Ramsey, Mr. Clyde,
4 and Mr. Williams?

5 A. Yes. Yes, it was.

6 Q. And did Mr. Fodor make efforts to try to get money back
7 from you?

8 A. Yes.

9 Q. So this \$60,000 is being paid back to Larry Telford. Is
10 that related to the money that you had taken as part of this
11 investment, or was it related to money that
12 Michael Heshelman --

13 A. It was related to Michael Heshelman.

14 Q. All right. Dennis Mickelson gets \$50,000.

15 A. Yes.

16 Q. Why is Dennis Mickelson getting \$50,000?

17 A. He had an agreement with Michael that he'd receive money
18 when depositors -- when deposits were made.

19 Q. Get a cut?

20 A. Yes.

21 Q. The next item, Bryce Sherwood gets \$160,400.

22 A. Yes.

23 Q. Is that your cut?

24 A. Yes.

25 Q. Now, who decided how much money that you would get?

1 A. Michael Heshelman had an agreement that I would
2 get -- with me that I would get 10 percent of what I raised on
3 this last one, on this last transaction.

4 Q. Well, you brought the money. Couldn't you have demanded
5 more?

6 A. Yes.

7 Q. You could have asked for it, but who ultimately decides?

8 A. Michael Heshelman.

9 Q. And then attached to this there are a bunch of
10 instructions regarding where the money is going to be wired.

11 A. Yes.

12 Q. And are these all your accounts, you or your wife, and/or
13 your wife?

14 A. Yes. Yes.

15 Q. And did you also pass along additional banking information
16 for these other instructions? I don't believe it's in the
17 attachment, but do you remember at the time?

18 A. I only -- I cannot remember, but maybe -- it's on the
19 list. It says, "See attached banking for Paul Ramsey," so I
20 must have had that.

21 Q. And was there a similar sort of distribution of money
22 every single time somebody invested with Michael Heshelman
23 where you participated in pitching the investment?

24 A. Yeah, we would receive money every time that someone made
25 an investment.

1 Q. Did you tell Alan Moody that you were getting \$160,400 of
2 his money?

3 A. No, I did not.

4 Q. In fact, you told him at some point that you weren't going
5 to get paid until after the deal was done?

6 A. That's correct.

7 Q. You lied to him?

8 A. Yes, I did.

9 Q. To his face?

10 A. Yes, I did.

11 Q. And all these communications that you were having with
12 Mr. Moody were right to his face, right?

13 A. Most of the time, yes.

14 Q. And most of these conversations you're lying to him about
15 where his money is?

16 A. Yes.

17 Q. And the same sort of lies and lulling and telling that
18 money is coming and delaying were made to Mr. Ramsey,
19 Mr. Clyde, Mr. Williams, and to Mr. Telford?

20 A. Yes. Regarding Mr. Clyde, I had very little contact with
21 him. I had spoken to his attorney.

22 Q. Okay. That was Mr. Jepson?

23 A. Arron Jepson, who actually -- who knew Michael Heshelman
24 from previous encounters.

25 Q. The same sort of delay --

1 A. Yes.

2 Q. -- was being passed along to Mr. Jepson?

3 A. I believe so. I did not have a lot of contact after
4 Mr. Jepson realized that he knew Michael directly, and then
5 they dealt directly.

6 Q. Okay. Well, so all this money that's going to you, is any
7 of this going to any sort of investment on the behalf of these
8 investors?

9 A. No.

10 Q. You're spending it?

11 A. Yes.

12 Q. Using it for your use and benefit?

13 A. Yes.

14 Q. Paying bills, going to restaurants, travel?

15 A. Uh-huh. Yes.

16 Q. I'll go through my list here.

17 All right. You mentioned -- let's start up with 5A.

18 Okay. Mr. Sherwood? Mr. Sherwood?

19 A. Yes.

20 Q. It might be -- whatever is easier for you, but we'll put
21 it up on the screen, or if it's easier to see it off the hard
22 copy, that's fine.

23 A. All right.

24 Q. All right. 5A. Money going to Thornbrook International.
25 Do you have any idea who that is?

1 A. No, I do not.

2 Q. Do you know anything about that transaction?

3 A. No, I do not.

4 Q. All right. Turn to B, 5B, John Grayshan. Do you know who
5 that is?

6 A. No, I do not.

7 Q. So did you instruct him to receive any money?

8 A. No, I did not.

9 Q. Mitch Miller. Do you know who that is?

10 A. I know Mitch Miller. He was an acquaintance of
11 Michael Heshelman's.

12 Q. An acquaintance. Just a friend, or was he some sort of
13 business associate? What was the nature of their connection?

14 A. When I had met him, he was introduced as a business
15 associate of Michael Heshelman's.

16 Q. He was introduced. Who introduced you?

17 A. Michael Heshelman introduced me to Mitch Miller.

18 Q. So you actually met him in person?

19 A. Yes, I did.

20 Q. Where did you meet Mitch Miller?

21 A. In New York.

22 Q. This is in New York City?

23 A. New York City.

24 Q. Go to the -- we'll come back to New York City in just a
25 moment. We'll go to the next one.

1 "Orange County Teachers Credit Union," and "Special
2 instructions, if any: For further credit to
3 Debra Featherstone."

4 Any idea on why Debra Featherstone received money?

5 A. No, I do not.

6 Q. Are you directing this?

7 A. No, I'm not.

8 Q. Go to next one, 5E, EMA Hotel. I think Betriebs actually
9 is German for company. So EMA Hotel company?

10 A. No idea.

11 Q. But this indicates that it's in Zurich, Switzerland. Does
12 Zurich, Switzerland, have any significance to you?

13 A. That's where Michael Heshelman was located for several
14 years. I could only speculate about what it's for.

15 Q. Okay. The next page, 5F, Investors First Ban-Corp?

16 A. That was Mr. Heshelman's company.

17 Q. Now, was this company -- did it consist of a
18 brick-and-mortar building?

19 A. No, it did not.

20 Q. What was it?

21 A. It was a company that he held. It was a paper company or
22 a documentation-type company, but I do not believe it had a
23 physical address, a brick-and-mortar office that I'm aware of.

24 Q. Who was Investors First Ban-Corp?

25 A. It was Michael Heshelman's company, a corporation.

1 Q. And what did it consist of other than paper in terms of
2 people, anything?

3 A. The only person that ever introduced himself as an officer
4 of the company was Ron Featherstone.

5 Q. Next in 5G, Bristol Plaza.

6 A. That's an apartment in -- building in New York City where
7 Michael Heshelman kept a residence.

8 Q. Have you been there?

9 A. Yes, I have.

10 Q. You've stayed there?

11 A. Yes, I have.

12 Q. Now, this is a -- is it a long-term-stay hotel?

13 A. I don't know, but it was a furnished apartment.

14 Q. Okay. How many apartments did Mr. Heshelman have?

15 A. One that I'm aware of.

16 Q. And was this an apartment that he had maintained for an
17 extended period of time?

18 A. Yes.

19 Q. How long?

20 A. I had known about the apartment -- he had been in the same
21 place in New York for over a year.

22 Q. Over one year?

23 A. Over one year.

24 Q. The next is 5H, this Arron Jepson, and this is the
25 individual you said might be associated with --

1 A. With Allen Clyde.

2 Q. I'm sorry, Allen Clyde?

3 A. Yes, with Allen Clyde.

4 Q. Pierre Labauve was -- we'll get back to that.

5 First Ban-Corp, 5I?

6 A. That was also a company of Michael Heshelman's.

7 Q. Any building associated with it? Any physical location
8 associated with this?

9 A. None that I'm aware of.

10 Q. As far as you know, who -- what was the entirety of
11 First Ban-Corp? What was it?

12 A. It was Michael Heshelman's shell-type company that was
13 just used in name. It was a business company or a corporation.

14 Q. All right. 5J is Paul Ramsey.

15 A. Yes.

16 Q. We already talked about Mr. Ramsey receiving money. So
17 was this an actual follow-up on your fax instructing that money
18 be sent to Mr. Ramsey?

19 A. I believe so.

20 Q. It appears to be that?

21 A. It appears to be that.

22 Q. Okay. 5K, AutoOz. Do you have any knowledge of that?

23 A. AutoOz was a car remanufacturer. It did upgrades to
24 vehicles, and it was owned by I believe it was a cousin of
25 Michael Heshelman's.

1 Q. Okay. 5L, Marie Gosse-Gardet or Gardet.

2 A. She was somebody that I had met in New York one time that
3 purported to be working with Michael Heshelman on some
4 investments.

5 Q. Was it just -- as far as you know, was this purely a
6 business relationship, or was there any sort of personal
7 relationship with Ms. Gosse-Gardet?

8 A. I believe it was just a business relationship.

9 Q. And this was what was represented to you by whom?

10 A. By Michael Heshelman.

11 Q. Latimer Enterprises?

12 A. No idea.

13 Q. CMC Group, 5N?

14 A. No idea.

15 Q. 5O, Sharon Carlson?

16 A. No idea.

17 Q. 5P. This is money that's going to you?

18 A. It's going to me.

19 Q. So this would be apparently some confirmation that money
20 is going to be sent to you?

21 A. Yes.

22 Q. And you did in fact receive money?

23 A. Yes, I did.

24 Q. Okay. Next we have 5A -- 5Q to Michael Heshelman and HSBC
25 Bank in London, England.

1 I think you had mentioned once that Michael had spent some
2 time in London.

3 A. Yes.

4 Q. Do you know anything about this HSBC bank account?

5 A. No, I do not.

6 Q. 5R, again Michael Heshelman, but it's going to UBS Bank in
7 Zurich. Do you know anything about this UBS Bank?

8 A. No, I do not. I know about the bank, but I do not know
9 about this account. I've heard --

10 Q. You've heard of the bank?

11 A. Yes.

12 Q. Do you have any idea what Mr. Heshelman is doing with the
13 money that's at UBS or at HSBC?

14 A. No.

15 Q. Okay. Go to 5S, Hanover Hill Heritage, further credit to
16 Larry Kibler/Earl and Patricia.

17 A. No idea.

18 Q. 5T is money going to Joy Sherwood. 5U is money going to
19 Bryce or Joy Sherwood. 5V is going to Dennis Mickelson. This
20 is all information that was on your --

21 A. My fax.

22 Q. -- one-page letter or fax.

23 Highland Equities?

24 A. I do not know who Highland Equities, who that is.

25 Q. Now, the \$89,600 --

1 A. Oh, okay.

2 Q. -- does that ring a bell?

3 A. Yes, it does.

4 Q. Okay.

5 A. I did not recognize the name Highland Equities.

6 Q. But that was -- you had instructed that money be sent?

7 A. That was for Pierre Labauve. And maybe that's the name of
8 his company that he uses.

9 Q. X is more money to you and your wife.

10 A. Uh-huh.

11 Q. Y, Ralph Trustees Limited, the Athaeneum Hotel. It's in
12 England.

13 A. Uh-huh.

14 Q. Do you know anything about this?

15 A. No, I do not.

16 Q. Do you have any idea where Michael Heshelman was
17 staying --

18 A. No.

19 Q. -- in London?

20 A. No, I do not.

21 Q. Next, 5Z, Prism Mortgage. Do you know anything about
22 that?

23 A. No, I do not.

24 Q. How about the name Timothy Oliver?

25 A. No. Only from what we've heard here.

1 Q. Okay. 5Z. 5AA, TD Bank, for further credit to ICW
2 Dream Homes.

3 A. That's Larry Telford.

4 Q. Okay. More money -- 5BB is more money to you.
5 5CC is Erna Van Schelt. Any idea who that is?

6 A. No, I do not.

7 Q. The money is going to Reinach, Switzerland.

8 A. No, I --

9 Q. 5CC.

10 A. I do not know that name.

11 Q. Okay. But Switzerland, again, is that where Mr. Heshelman
12 was living?

13 A. Yes.

14 Q. Money to Mitchell Miller. Or Mitch Miller, excuse me.
15 And again more money to Arron Jepson. And then money here on
16 5FF to Hans Wilof. Any idea who Hans Wilof is?

17 A. No, I do not.

18 Q. 5GG, Robert Tringham.

19 A. I know Robert Tringham.

20 Q. You know who that is?

21 A. Yes, I do.

22 Q. Okay. Who is Robert Tringham?

23 A. He was a person also living at the Bristol Hotel that
24 Michael Heshelman had a working relationship with.

25 Q. Okay. And what was the nature of the connection?

1 A. They were attempting to do transactions together or
2 talking about transactions together.

3 Q. Now, they are talking about doing transactions, and he's
4 talking about doing deals. And you're talking to him on the
5 phone, and he's talking about doing this deal, and that's being
6 passed along to Pastor Moody.

7 As you're saying this, did you see any evidence that they
8 were actually doing and following through with what they are
9 claiming?

10 A. No.

11 Q. Any paperwork, any sort of documentation showing they are
12 doing this trading activity?

13 A. I never saw any account statements or bank or brokerage
14 statements that would indicate there was a deal going on.

15 Q. Now, as much as they are talking about this, did you ever
16 see any money come in from the investment returns?

17 A. No, I did not.

18 Q. The only money that's coming in, is that coming in from
19 other investors?

20 A. Yes, it is.

21 Q. 5HH. Again, money to the Bristol Plaza.

22 5II, it's a check going to Moore Homes.

23 Any idea what that might be for?

24 A. I have an idea.

25 Q. I'm sorry, who that's to.

1 A. I believe it was to his -- this -- I believe it was to his
2 sister and brother-in-law.

3 Q. What's his sister's name?

4 A. Brenda Moore.

5 Q. Are they related to Moore Homes?

6 A. No idea.

7 Q. Now -- okay. Let's now turn to tab 12.

8 Do you have that in front of you?

9 A. Yes, I do.

10 Q. All right. 12A is a summary. Do you see that?

11 A. Yes, I do.

12 Q. All right. This is a summary of where Pastor Moody's
13 money went according to the bank statements. And we've covered
14 all of that, I think, already through the individual wire
15 transfers.

16 12B is a list here of transactions associated with
17 Timothy Oliver and Prism Mortgage.

18 Now, you indicated that you did not participate in this --

19 A. That's correct.

20 Q. -- this activity with Mr. Oliver.

21 So as we go through this, it doesn't appear that there's
22 any money being sent to you?

23 A. That's correct.

24 Q. The next, 12C, Allen Clyde.

25 A. Yes.

1 Q. Now, you said you had some communication with Allen Clyde.
2 Did you get any money?

3 A. It doesn't show here, but yes, yes, I did.

4 Q. So there's actually some activity, some transactions where
5 you received money, but it's not reflected in this summary?

6 A. That's correct.

7 Q. How much money did you receive?

8 A. Approximately \$470,000. Not this account. I mean, from
9 Mr. Clyde or from total?

10 Q. Not total. From Mr. Clyde.

11 A. Oh. \$50,000.

12 Q. There's some other people -- let's go forward.

13 Paul Ramsey, 12D. You received money from Paul Ramsey's
14 investment?

15 A. Yes.

16 Q. There's some other names here. Do you recognize any of
17 these other -- as you go through this, do you recognize any
18 other individuals who have been associated with
19 Michael Heshelman, any other names?

20 A. I think we went through the list. Dennis Mickelson,
21 myself, Mitch Miller, and the Orange County Teachers Federal
22 Credit Union was Featherstone. That's the names I recognize.
23 And now Prism Mortgage because I've seen the page prior to
24 this.

25 Q. Okay. Let's go down to 12E, Mr. Williams. And again,

1 this is an individual who had some association with
2 Pierre Labauve?

3 A. Yes.

4 Q. Again, this, you can see you got a sum of money?

5 A. Yes.

6 Q. Now, 12F contains a summary of funds that have been
7 identified by the government as potentially being related to
8 Michael Heshelman either through his companies or by hotels and
9 such and totaling over 1.9 million.

10 There's under 12G a summary of accounts that have been
11 identified associated with you.

12 A. Yes.

13 Q. Now, as we indicated with respect to I think it was
14 Mr. Ramsey, there's another \$50,000 that wasn't reflected on
15 the spreadsheet that may add to this total.

16 Assuming -- assuming this -- assume this with me, please:
17 That this summary of \$470,000 did not include -- if it didn't
18 include that \$50,000 from Mr. Ramsey's money, the total here
19 might increase to 500?

20 A. It might, but I would -- I would think that it was a
21 carryover. Some of the people came at the same time, so I may
22 have been double paid on one, under one ledger, and it would
23 reflect that, I think, if we went through it.

24 Q. Okay. So as best as you can recall, how much money did
25 you receive from your participation?

1 A. This would be correct, I would believe, the \$470,000.
2 There may be the other 50. We'd have to look through this.

3 Q. All right. And last, Mr. Mickelson received about
4 1 1/2 million dollars.

5 A. Yes, that's what I'm told.

6 Q. Can you see any sense how it is that you
7 received -- forgive me, I'm going to use round numbers -- about
8 50,000, \$500,000, Mr. Mickelson receives 1.5 million, and
9 Mr. Heshelman receives 1.9 million? Can you give us some
10 explanation for this differentiation in how much money everyone
11 is getting?

12 A. I cannot. I would speculate on it. That's all I could
13 do. I don't know why they would get more.

14 Q. Okay. You have under that same binder a series of
15 transcripts. I don't want to go through and play tapes again,
16 but I want to refer to transcripts. It might be easier.

17 A. Okay.

18 Q. All right. Let's go to 20F. Page 10, please. Let me
19 give you a little bit of context here for 20F.

20 20F is on January 5th, 2004. This is a recording of a
21 meeting in person between yourself, Mr. Heshelman, and
22 Pastor Moody at a Steak 'n Shake restaurant. I think it's in
23 Battle Creek.

24 Do you recall that?

25 A. Yes.

1 Q. Do you remember that meeting?

2 A. I -- yes, I do. I thought it was at Bob Evans, but . . .

3 Q. Well, wasn't there a first meeting in person?

4 A. Well, there were several -- there were a couple meetings
5 in person. There were meetings in person, but I just -- at
6 this time I can't remember it being at Bob Evans or at
7 Steak 'n Shake.

8 Q. You do remember meeting at a restaurant?

9 A. I do remember meeting with Michael and Alan at two
10 different times.

11 Q. Okay. All right. I want to bring your attention now
12 towards the middle of this.

13 Pastor Moody is asking some questions about -- can
14 everybody read this all right as is? All right, we'll leave it
15 this size.

16 Asking some questions about at some point that you were
17 selling the business to Michael Heshelman or vice versa. Was
18 that some sort of representation that was being made to
19 Pastor Moody, that there was -- somehow the business was being
20 handed over to Michael Heshelman?

21 A. I may be on the wrong page.

22 Q. I might be on the wrong page too.

23 Okay. Let me start again. Because I'm looking at
24 here -- so you were working for him. Pastor Moody is asking.
25 He said, "No, no." And then, "How does he get paid? What do

1 you get out of this?" And Michael, Michael Heshelman,
2 responds, "He gets paid out of the broker fee."

3 A. I see.

4 Q. And then you come in. "I get a fee if everything
5 gets -- after everything gets done, I'll get paid. If he's
6 successful. If he's not successful, I've got a big bill to
7 pay."

8 That was a lie?

9 A. Yes.

10 Q. So -- "This has no effect on you, though." So, again,
11 that was a lie?

12 A. Yes.

13 Q. Now, as we go along here we go into page 12 and into 13,
14 Pastor Moody is asking more questions about, "Well, what's
15 happening with the money?" And pressing a little more. And
16 also where the money is.

17 To give a little context here. About the bottom of 12.
18 "I understand -- I understand there's a certain amount of faith
19 here. Everyone has to have faith." This is Michael Heshelman
20 speaking. "I still stand up every day. It's all for good
21 things too. It's not just for self-indulgence. There's a lot
22 of good things involved in what we're doing."

23 Now, there was some representation here that this money
24 was going to be used to raise -- for humanitarian purposes. To
25 raise money for charities and other public works and that sort

1 of projects.

2 A. Yes.

3 Q. Is that true or was that a lie? As far as what you and
4 Mr. Heshelman were doing.

5 Pastor Moody might have had that goal, but with respect to
6 what you and Michael Heshelman were doing, any truth to trying
7 to raise money for humanitarian reasons?

8 A. No.

9 Q. Now, Alan Moody continues with ". . . a lot tougher road.
10 We're getting caught up in things. Time frames and covering
11 promises of year outs. It's been hanging over me for a while.
12 Michael Heshelman wants a million dollars." I think
13 "Careful" -- oh, I think "careful" might have been a server in
14 the background.

15 Then you chime in, "We get a check for a million dollars,
16 it will be really quick, and you would be expecting" -- "what
17 would be the magic number to make your not just original debt
18 but what are your expectations to receive?" I'm sorry. I'm
19 paraphrasing that section. Forgive me.

20 You're chiming in here and asking about what his
21 expectation is for receiving rather than just questioning about
22 his pressure on when the money is coming in.

23 What was the point of that?

24 A. To delay his expectations.

25 Q. Changing subject? You're changing subject a little bit

1 about what maybe the money might be coming in as opposed to
2 when it's coming in?

3 A. Probably.

4 Q. Okay. As this continues on, they are asking about what
5 was the expectation here, what were we going to be spending the
6 money on.

7 You go to page 14. There's some discussion about Texas
8 oil stuff, oil contracts. Do you remember that being discussed
9 with Pastor Moody?

10 A. No, I went through the transcript here.

11 Q. Now, there were some -- would it be correct, though, that
12 there were some conversations -- were you advised there were
13 maybe some conversations between Pastor Moody and
14 Michael Heshelman that you did not participate in?

15 A. Yes.

16 Q. And then we turn to page 16, and you're talking about --
17 you're in the stock market. You don't have any contracts.
18 Michael Heshelman: "We're contracted to buy" -- the waiter is
19 probably dropping off a check -- he continues, in the amount of
20 millions dollars of dollars every day. You know, we are
21 contracted to sell that every day. So the market moves up and
22 down on a daily basis. Buy and sell whatever he wants. And
23 again you're chiming in here. "We're just not doing anything.
24 Today we're just waiting for reports to come out tomorrow
25 before we do anything. Dead day."

1 Did you really know what was going on?

2 A. No.

3 Q. So what are you doing?

4 A. Trying to delay Mr. Moody from taking action.

5 Q. Are you chiming in here trying to help Mr. Heshelman?

6 A. Yes.

7 Q. Trying to corroborate what he's saying to Pastor Moody?

8 A. Yes.

9 Q. And much of what you're doing when you're speaking with
10 Pastor Moody, is it an effort also to corroborate the
11 information that's being passed along from Michael Heshelman as
12 best you can?

13 A. Yes.

14 Q. All right. Exhibit 21. Do you see that?

15 A. Yes, I do.

16 Q. All right. Now, I don't -- I don't know if you've
17 actually seen this document. Have you seen it before?

18 A. Yes.

19 Q. When?

20 A. Um, Monday.

21 Q. Okay. As part of the preparation for this case?

22 A. Yes.

23 Q. We asked you questions -- maybe the question was: Have
24 you seen this document before? Something along those lines
25 initially?

1 A. No.

2 Q. Okay. I'm sorry. So you hadn't seen it before?

3 A. No, I have not.

4 Q. But do you recognize the transaction that's occurring in
5 this that would be reflected in this invoice?

6 A. Yes, I do.

7 Q. The First Baptist Church of Middleville, Michigan. That's
8 the church where you were a member?

9 A. Yes.

10 Q. That is Pastor Moody's church?

11 A. Yes.

12 Q. It reflects a transaction to buy a 1996 bus.

13 Do you remember that?

14 A. Yes, I do.

15 Q. Was there some discussion with Pastor Moody about
16 providing a bus to the church?

17 A. Yes.

18 Q. All right. What was -- what were you telling Pastor Moody
19 about this bus?

20 A. Pastor Moody asked about -- he said there was a need for a
21 bus for the church, and we had talked about it, and I
22 instructed him to ask Mr. Heshelman for the money to buy the
23 bus. Maybe not instructed. I directed him to
24 Michael Heshelman.

25 Q. Okay. So you weren't necessarily a party to those

1 conversations?

2 A. I was a party to the conversation. I asked -- but I was
3 not a party to the conversation when this -- when the money was
4 moved and the money went from Ken Warner to buy the bus.

5 Q. All right. Let me see if we can break this down.

6 At some point was there some discussion about somebody
7 either giving a bus, donating a bus, or buying a bus for the
8 church?

9 A. Yes.

10 Q. Was this conversation such that Pastor Moody was agreeing
11 to buy the bus for his own church?

12 A. No.

13 Q. Was it represented to Pastor Moody that somebody else
14 would provide the bus to the church?

15 A. Yes.

16 Q. Either being donated by a third-party or donated by
17 yourself or Michael Heshelman, but somebody was going to give a
18 bus to the church?

19 A. Yes.

20 Q. And rather than somebody else donating the bus, did you
21 have a conversation with Michael Heshelman about getting this
22 bus paid for?

23 A. Yes.

24 Q. And how was the bus going to be paid for?

25 A. From Michael Heshelman's attorney's trust account with

1 Ken Warner.

2 Q. Well, was there money already in there from somebody else?

3 A. Somebody else or -- it was either somebody else's money or
4 Mr. Moody's money.

5 Q. Now, how much time passed between Pastor Moody investing
6 1 1/2 million dollars and the bus being paid for?

7 A. Two or three months maybe.

8 Q. Well --

9 A. I'm not sure.

10 Q. Was it a relatively short period of time?

11 A. It was a short period of time.

12 Q. According to the banking records, it looks like the wire
13 transfer to Pastor Moody was on March 6th, 2001, and the
14 invoice is dated March 27th, 2001, but the banking information
15 behind that indicates that the wire transfer itself was made on
16 the 19th.

17 A. Okay.

18 Q. A matter of a couple of weeks.

19 A. Okay.

20 Q. Any reason to dispute that time line as being --

21 A. No.

22 Q. So when this issue came up for the actual payment of the
23 bus, who did you have to go talk to about making certain that
24 the bus actually got paid for?

25 A. To Michael Heshelman.

1 Q. And how did you reach him?

2 A. Telephone.

3 Q. Is that pretty -- is that probably the most common way in
4 which you spoke with Michael Heshelman?

5 A. Yes.

6 Q. Did Mr. Heshelman have a land line that you used, or was
7 it mostly --

8 A. Mostly a cell phone.

9 Q. So you met in person with Michael Heshelman, I think, on
10 numerous occasions?

11 A. Yes.

12 Q. Would you recognize him?

13 A. Yes, I do.

14 Q. Do you see him here in court today?

15 A. Yes, I do.

16 Q. Would you please describe for the record what he's
17 wearing.

18 A. Wearing a black suit, white shirt, and a red tie.

19 Q. Glasses?

20 A. Glasses.

21 MR. MEKARU: Your Honor, may the record reflect he's
22 identified the defendant?

23 THE COURT: Yes.

24 Q. (BY MR. MEKARU) All right. Just a few more points here,
25 Mr. Sherwood.

1 Mr. Sherwood, now in addition to the activity that you're
2 engaging in with Mr. Heshelman, you yourself have gone out and
3 done your own fraudulent activity, right?

4 A. Yes, I have.

5 Q. I mean, you've gone out and lied to other people and got
6 them to invest with you?

7 A. Yes, I have.

8 Q. You've indicated already that you had convinced
9 Mr. Telford and Mr. Fodor to send you a million dollars, and
10 that was in addition or apart from money that they already
11 invested with Mr. Heshelman, right?

12 A. Correct.

13 Q. Is there also a Denise Du Val?

14 A. Yes.

15 Q. Another individual who you convinced to give you money and
16 you paid her back?

17 A. That's correct.

18 Q. And that representation that there was some sort of
19 investment or a loan or whatever, was that a lie?

20 A. Yes.

21 Q. How much money did you --

22 A. \$12,000.

23 Q. All right. How about a man by the name of Chuck Bunting?

24 A. Chuck Bunting, presented the same, an opportunity that
25 wasn't real.

1 Q. Larry Hall?

2 A. Larry Hall was also known as Bud Riley, and he had -- he
3 was also an investor with Michael, and I also received funds
4 from him.

5 MR. MEKARU: One moment, Your Honor.

6 Your Honor, thank you. I'll pass the witness.

7 THE COURT: Thank you. At this time, ladies and
8 gentlemen, we're going to take our morning break, and because I
9 have another commitment, we're not going to come back until
10 12:30. So you will have a couple of hours, a
11 couple-of-hours-and-a-half break, and then we will come back
12 for the cross-examination of Mr. Sherwood.

13 THE CLERK: Sit down for a minute.

14 THE COURT: I just want to briefly reiterate the
15 cautionary instructions I've already given you several times,
16 and that is not to discuss the matter with anybody, even among
17 yourselves. Not to try to reach any conclusions. Not to do
18 any research. Not to use any various electronic devices to
19 contact others with regard to what you're doing here today and
20 throughout this trial. Not to come to any opinion.

21 We've really just gotten into the meat of the issues
22 that are going to be decided, so please keep those instructions
23 in mind as you go about taking your break. Thank you.

24 THE CLERK: Everyone rise, please. This Court is in
25 recess.

1 *(Jury leaves courtroom at 10:06 a.m.)*

2 *THE COURT:* I just have one thing to put on the
3 record before we go. And this, I think, is for -- more for the
4 jury's edification and really for my own, it's not clear to me,
5 Mr. Mekaru, what the relationship was between Mr. Sherwood and
6 Mr. Heshelman, and that is something that I would request that
7 somebody clear up before this witness is excused.

8 *MR. MEKARU:* Yes, Your Honor.

9 *THE COURT:* Thank you. We're adjourned.

10 *(Recess taken at 10:08 a.m.)*

11 *(Jury entered the courtroom at 12:48 p.m.)*

12 *THE COURT:* Mr. Tracy.

13 *MR. TRACY:* Thank you, Your Honor.

14 CROSS-EXAMINATION

15 *BY MR. TRACY:*

16 *Q.* Good afternoon, Mr. Sherwood. Can you hear me okay?

17 *A.* Yes, I can.

18 *Q.* I think you have the mic in a good spot there, but if I
19 see it moving a little bit, I may just remind you so to make
20 sure the jury can hear. Okay?

21 *A.* Okay.

22 *Q.* Now, this morning we had a chance to hear from you a
23 little bit about the plea agreement that you took in your own
24 case, and I need to go back over a couple items regarding that.

25 Now, your attorney is Landon Miller, correct?

1 A. Correct.

2 Q. And he's from Florida?

3 A. Yes.

4 Q. He was representing you throughout the process that led up
5 to your plea agreement?

6 A. Correct.

7 Q. And I presume -- and I don't want to get into the details
8 of your conversation with your attorney, that's between you and
9 him -- I presume he had an opportunity to walk you through what
10 are called the Federal Sentencing Guidelines?

11 A. Yes.

12 Q. And he also had an opportunity to talk to you about if you
13 decided to go to trial and were found guilty what range you may
14 be looking at in terms of years in prison?

15 A. Yes.

16 Q. And in general, was that range somewhere in the 10- to
17 15-year range?

18 MR. MEKARU: I'm going to object, Your Honor. This
19 is getting into the issue of penalties. To the extent that
20 this has any -- the discussion of this defendant on what the
21 implication would be in effect for Mr. Heshelman, the idea of
22 punishment isn't for the purview of the jury. Just the fact it
23 might be greater than it might be with a plea I think is going
24 to be adequate for the consideration of the bias of this
25 witness.

1 THE COURT: And what is the actual basis of your
2 objection, Mr. Mekaru?

3 MR. MEKARU: The objection is that we're getting into
4 punishment, and punishment is not an appropriate consideration
5 for the jury. The jury is only supposed to consider guilt or
6 innocence. And even in the jury instruction, the punishment is
7 not for their consideration.

8 And to the extent we have some discussion about how
9 much time Mr. Sherwood might have been facing, the implication
10 would be that Mr. Heshelman might be facing the same.

11 THE COURT: Mr. Tracy, in addition to all of that, I
12 have a difficult time seeing relevance here, and so I'm going
13 to instruct you to stay away from this area of punishment.

14 The jury has heard about the plea agreement, they
15 know that there are considerations being made that have been
16 made to Mr. Sherwood with regard to that, and they also have
17 heard that the discretion in sentencing will be mine and mine
18 alone.

19 MR. TRACY: Can I speak to that for one more second,
20 Your Honor?

21 THE COURT: No, you may not.

22 MR. TRACY: Can we do it at sidebar, then?

23 *(At sidebar on the record)*

24 MR. TRACY: If he had already taken a 5K, or maybe
25 Rule 35 is better, if he had been in jail for three years and

1 then he comes back to him and all of the sudden the sentence
2 gets reduced from 180 months down to 50, we'd let it in. All
3 I'm doing is explaining to the jury that the benefit he's
4 getting might be fairly substantial, and that goes toward --

5 THE COURT: I think the jury has already figured that
6 out, and I really do not see that as pertinent to what their
7 eventual determination is going to be in this case.

8 MR. TRACY: Okay. So just so the record is clear,
9 I'm asking to go into it, and you're not letting me?

10 THE COURT: Exactly.

11 MR. TRACY: Thank you very much, Your Honor.

12 *(Sidebar discussion concluded)*

13 Q. (BY MR. TRACY) Okay. Let's move to a different part of
14 the plea agreement that I think you went over a little bit but
15 I just want to make sure we're clear on.

16 Your -- there's a cooperation paragraph that Dan walked
17 you through this morning, and we don't need to look at it
18 again, I think it's paragraph 7 there. Part of the reason
19 you're testifying here is pursuant to that cooperation
20 paragraph, correct?

21 A. Correct.

22 Q. But you're hoping to receive an additional benefit because
23 of that, correct?

24 A. Correct.

25 Q. And what you hoped will happen is that the government

1 either prior to your sentencing or after your sentencing will
2 move for a further reduction of whatever time you may be
3 facing?

4 A. Correct.

5 Q. That's what you're hoping for, correct?

6 A. Yes, sir.

7 Q. Now, Kathy, if we could bring up Government Exhibit 12G,
8 please.

9 And, Mr. Sherwood, if it's easier for you to see the
10 books, fine. Or if you see it here, just like you did with
11 Dan, that's fine too.

12 Now, this was gone again over a little bit in your direct.
13 Your best recollection was this \$470,900, which is the total at
14 the bottom, was approximately what you received through the
15 course of these investments that were made, correct?

16 A. Correct.

17 Q. In other words, that's the amount of money that came out
18 of Mr. Warner's account to you?

19 A. Yes.

20 Q. Now, you weren't aware or you couldn't be completely sure
21 whether or not another \$50,000 or something, perhaps from
22 the -- which deal was that, was that the Clyde deal?

23 A. I believe so.

24 Q. Okay. So that's Arron Jepson was his attorney, but
25 Allen Clyde?

1 A. Correct.

2 Q. You couldn't be sure whether or not some additional amount
3 should also factor in here that was roughly another 50 grand?

4 A. Correct.

5 Q. Okay. But other than that, your statement to the jury,
6 that's the entirety of any monies that you received relating to
7 these investments?

8 A. To the best of my recollection it is.

9 Q. Okay. Now, if we could go to -- I think 12H is
10 Mr. Mickelson's.

11 And while we're going there, what did you do with the
12 money, the 470 or the 500,000 that was -- what did you do with
13 the money you received from the investments?

14 A. Used it for my personal benefit.

15 Q. Okay. The other money you got out of Peter Fodor, which
16 maybe we'll go into in a little more detail later, that money
17 went into buying your home?

18 A. Yes.

19 Q. Was it just the home, or did you also have some acreage
20 around it?

21 A. It was a home and acreage.

22 Q. Okay. But this other money you got, close to 500 grand or
23 something, that also went to your personal benefit?

24 A. Yes.

25 Q. Not related to expenses or anything along the lines in

1 terms of trying to get these investment platforms in place, but
2 rather went to your personal . . .

3 A. Yes.

4 Q. Okay. Mr. Mickelson -- and I think if we go to the next
5 page of his, please.

6 Now, the total at the bottom for him is a little more than
7 \$1.5 million, correct?

8 A. Correct.

9 Q. Now, before today did you know that he had that much come
10 to him?

11 A. When I read the Indictment I did.

12 Q. Okay. And you read the Indictment, what, earlier this
13 year for the first time?

14 A. In December.

15 Q. December of '08?

16 A. Correct.

17 Q. That's the first time you were aware of the amount of
18 money that purports to have gone to him through these accounts?

19 A. Correct.

20 Q. Now, did you get any money from Mr. Mickelson?

21 A. Um, I do not believe so.

22 Q. You don't recall ever him sharing any of the monies that
23 he got through these investments with you?

24 A. I don't know.

25 Q. You're not sure?

1 A. I'm not sure.

2 Q. Okay. If you got monies from Mr. Mickelson, then that
3 obviously would have increased the amount of monies you
4 obtained above the 500 grand roughly, correct?

5 A. Correct.

6 Q. But you're not sure one way or the other?

7 A. Correct.

8 Q. Now, just going back to the 470 or roughly 500, that money
9 that you obtained, did you report any of that income to the
10 IRS?

11 A. No.

12 Q. And why not?

13 A. It was given to me as -- purported to be a loan as advance
14 fees that would be 1099'ed at some time.

15 Q. I don't understand.

16 A. I would be -- I was -- it was given to me at the front end
17 of the deal as an advance that would be . . .

18 Q. And it was your understanding that because it was some
19 sort of advance, you didn't need to report that income in the
20 year given?

21 A. Correct.

22 Q. Okay. Did you later report it?

23 A. No.

24 Q. You never have reported it?

25 A. No.

1 Q. Now let's talk about your efforts, and I'll say just
2 generally for the time period from '99 to 2008, and maybe we'll
3 need to narrow in on a more specific period.

4 Did you ever go to Switzerland to assist Mr. Heshelman
5 with any of his work?

6 A. No.

7 Q. Did you ever have any meetings with any of the people that
8 he was meeting with over in Zurich or other parts of Europe in
9 terms of the work he was trying to accomplish?

10 A. No.

11 Q. Did you ever join any conference calls with any of those
12 people?

13 A. No.

14 Q. Now, you were in New York City at least on one occasion,
15 correct?

16 A. Correct.

17 Q. And I believe Mr. Moody in his direct said something like
18 he even maybe saw you, he was there too with maybe some kids on
19 a visit to the city and they saw you when you were there?

20 A. That's correct.

21 Q. Now, do you remember roughly when that was?

22 A. No, I do not. It would be in 2000 or 2001. I cannot
23 remember. It was several years ago.

24 Q. Okay. I take it since Mr. Moody's investments were in
25 December of 2000 and March of '01, it probably would have been

1 after those investments, correct?

2 A. Yes, correct.

3 Q. So sometime after -- either in or after 2001?

4 A. Yes.

5 Q. Okay. But when you were in New York, did you meet with
6 any of Michael's connections in New York pertaining to any of
7 the transactions?

8 A. Yes.

9 Q. And who was that?

10 A. I met Robert Tringham. I met Ronald Featherstone. I met
11 Mitch Miller. And I met other people. And I think -- I may
12 get the name wrong, but I believe I met a Donello, and I can't
13 remember his last name.

14 Q. Okay. Now, on your direct -- I'm sorry, go ahead.

15 A. And I met a Marie Gosse-Gardet.

16 Q. Okay. Anybody else?

17 A. Not that I can remember right now.

18 Q. Okay. Were these all in one meeting, or were they
19 multiple meetings?

20 A. Multiple, different times. Whether in meetings or social.
21 They weren't necessarily meetings.

22 Q. I believe on direct with respect to Robert Tringham, I
23 think is his name, right, something like that?

24 A. Yes.

25 Q. With respect to him, you didn't have any real detail about

1 the type of investment Michael and Mr. Tringham were working
2 on; is that correct?

3 A. Only I was told that they were working on a transaction,
4 on a buy/sell agreement.

5 Q. Beyond that did you know anything else?

6 A. No.

7 Q. And then Mr. Featherstone, I think you described him as
8 sort of a partner, he might even have an office or title maybe
9 with one of Mr. Heshelman's companies?

10 A. Yes.

11 Q. But did you know anything beyond that in terms of what his
12 activities were?

13 A. No.

14 Q. And did you ask him about it?

15 A. He is -- yes, I did, and all he said was he was working
16 with Michael, and there was not much detail given.

17 Q. Okay. Did you probe more deeply at all or try to get more
18 information?

19 A. I tried, but I did not receive any more information.

20 Q. Okay. And then Mitch Miller, correct?

21 A. Right.

22 Q. And Mr. Miller, was it your understanding that Michael and
23 Mr. Miller, perhaps others, were working on some sort of bond
24 deals or currency deals?

25 A. Um, yes. I only met Mr. Miller at -- I was at dinner with

1 him a couple of times, and there was not a lot of business
2 talk. But it was implied that he was working with Michael on a
3 couple of transactions.

4 Q. Okay. And in the context of those discussions, maybe with
5 Mr. Heshelman and Mr. Miller, maybe there were others, did the
6 concept of these new Kuwaiti notes or bonds or any of that come
7 up in the context of those discussions?

8 A. I cannot remember.

9 Q. So you don't have a real good level of understanding in
10 terms of what specifically Mr. Miller was working on either?

11 A. No.

12 Q. Just generally that there were some efforts being made?

13 A. Yes.

14 Q. And these meetings that you would have participated in,
15 we're talking sort of in the '01/'02/'03 time frame, or when do
16 you think?

17 A. I believe that would be the correct time frame.

18 Q. Okay. And from your impressions of what you saw --
19 because on direct you sort of suggested that, you know, maybe
20 with the benefit of 20/20 hindsight you don't think any genuine
21 efforts are being made, but when you're seeing these meetings
22 taking place, at the time did you believe there were genuine
23 efforts being made to try to get investments in place?

24 A. I believe at the time there was -- they were talking about
25 genuine investments, but I did not believe they could succeed

1 at those particular investments.

2 Q. And is that because they really didn't have the skills and
3 abilities to pull it off?

4 A. I don't know that. I thought the numbers were too high to
5 receive. And, you know, I did not believe there was the
6 possibility of getting that kind of a yield from a bank from
7 bond transactions.

8 Q. Okay. So you questioned the marketability to generate the
9 kind of yield they were talking about?

10 A. Yes.

11 Q. Now, have you done any independent investigation, or in
12 your experience in financial matters, were the types of yields
13 that they were shooting for, do those exist in the world in
14 terms of people making investments?

15 A. Not that I'm aware of.

16 Q. Okay. But you don't know for sure because you don't know
17 about every return of investments around the world, correct?

18 A. Correct.

19 Q. But your reason for questioning whether things were
20 genuine was because the yield was higher than what you thought
21 it really could be?

22 A. That and the -- we were constantly changing different --
23 there was a constantly changing different deal. It was never a
24 conclusion. It was just a delay or a change.

25 Q. Okay. But again, you don't know about the specifics of

1 what resulted in those delays, correct?

2 A. Correct.

3 Q. You don't know whether or not a deal was close to being
4 consummated and then a bank had some change in paperwork that
5 created, you know -- that precluded that deal from going
6 forward? You don't know the details?

7 A. That's correct.

8 Q. Now, for most of the investors that got involved, you were
9 the initial contact person, correct?

10 A. From seeing different names today, I'm not sure, but I
11 believe I was the majority of the money.

12 Q. Right. Because as you said on direct, Moody was you,
13 right?

14 A. Correct.

15 Q. Mr. Ramsey?

16 A. Correct.

17 Q. Clyde, several others?

18 A. Yes.

19 Q. So the way it was described to those people at the outset
20 and what the investment was going to involve was
21 Bryce Sherwood's words, right?

22 A. No, I was repeating what -- I was telling what I was told.

23 Q. Okay. You have a spouse, correct?

24 A. Yes.

25 Q. Do you always repeat exactly correct what your spouse

1 tells you? Does she think so?

2 A. No.

3 Q. Okay. So what I want to be careful of, though, is the
4 meetings that were taking place, these were between
5 Bryce Sherwood and Alan Moody, for example? In other words,
6 Michael Heshelman wasn't there? These initial meetings.

7 A. These initial meetings, they were just me.

8 Q. Correct. So what these investors are hearing about what
9 is going to be accomplished or what the platform may look like,
10 et cetera, that's your words to them that they are hearing for
11 the first time, correct?

12 A. Yes.

13 Q. Now, whether or not you repeated something that Michael
14 said or you repeated it correctly or not, we don't really know,
15 do we?

16 A. That's right.

17 Q. And then at some point, because we heard from this -- from
18 Mr. Moody on his examination -- at some point for some of these
19 investors you sort of bowed out of the way and lost
20 communication with them, correct?

21 A. Yes. Correct.

22 Q. And for Mr. Moody, I think as he described it, that might
23 have happened pretty close in time to when you were being
24 evicted from your house and he was taking it over?

25 A. Yes.

1 Q. There was some tension created then?

2 A. Yes.

3 Q. And so from that point forward, you don't really know --
4 and that was maybe in the '04-'05 time frame -- you don't
5 really know what communications were going on between
6 Mr. Heshelman and Mr. Moody because you were out of the
7 picture?

8 A. Correct.

9 Q. But as far as you're aware, did Mr. Heshelman keep in
10 contact with these investors?

11 A. As far as I'm aware.

12 Q. Did you ever hear anything to the contrary?

13 A. Yes, at times I would hear that he was hard to reach, and
14 people would call me and see if I had heard anything from him.

15 Q. Okay. But even though he was hard to reach -- I mean, he
16 was over in Switzerland, right?

17 A. Right.

18 Q. So that's a difference of a time zone of what, seven,
19 eight, nine hours or something like that, right?

20 A. Five or six.

21 Q. Five or six. Okay. So he's not right down the street.
22 But even though it may have been difficult and you couldn't get
23 him on that very same day, did he remain in contact as far as
24 you're aware with these investors?

25 A. When --

1 MR. MEKARU: Your Honor, I guess can we get a little
2 foundation as to how this witness might know that? This is for
3 relevancy.

4 All we have was the transition from this witness
5 stopped talking to Pastor Moody and then some question that,
6 Well, Mr. Heshelman continued to speak with him, and there's no
7 foundation about how he would know that and no foundation how
8 he would know he was communicating with other investors. So if
9 we could just explore that, please.

10 THE COURT: I think that's fair comment, Mr. Tracy.

11 MR. TRACY: Okay.

12 Q. (BY MR. TRACY) Now, you had indicated that there were
13 times that people, maybe for example Mr. Moody, had indicated
14 it was difficult to get ahold of Mr. Heshelman and they may
15 contact you; is that correct?

16 A. Yes.

17 Q. Okay. And other than Mr. Moody, did any other investor
18 raise that issue with you?

19 A. Yes.

20 Q. For example, was Mr. Ramsey doing that?

21 A. Mr. Ramsey would call and say he'd been trying for days or
22 weeks to reach Michael.

23 Q. Okay. Ultimately did you hear back from Mr. Ramsey that
24 he was successful in speaking with Mr. Heshelman?

25 A. Yes, he would call me afterwards and said that he had

1 spoken to him.

2 Q. So was there ever a time, whether it was Mr. Moody,
3 Mr. Ramsey, or anybody that called you and said, You know, I'm
4 giving up, I haven't heard from him for months, and the
5 communications are dead? Did you ever have that kind of
6 contact with anybody?

7 MR. MEKARU: Excuse me, Your Honor, to the extent
8 that he's getting this information from these other witnesses,
9 Mr. Ramsey, Pastor Moody, the fact that there's some sort of
10 communication itself is hearsay. And Pastor Moody was
11 available to answer those questions directly rather than
12 getting -- eliciting this testimony from Mr. Sherwood.

13 THE COURT: I think we take your point, Mr. Tracy,
14 and I do think there's really a lack of materiality here. I
15 mean, it's -- your point is taken. I think the jury gets it.
16 I think I get it too.

17 MR. TRACY: Okay. If we have that in there, then
18 we'll move on.

19 Q. (BY MR. TRACY) Now, Dan asked you some questions about --
20 on your direct -- on his direct about your financial background
21 and the fact that roughly in '99 or 2000 that you were not a
22 financial advisor. Do you recall that?

23 A. Yes.

24 Q. Is that accurate, you were not a financial advisor?

25 A. I was not registered.

1 Q. But at one point you were?

2 A. Yes.

3 Q. In fact, what kind of securities registered license did
4 you have?

5 A. I had a Series 7 license.

6 Q. And could you just explain to the jury briefly, what does
7 that mean?

8 A. I was a registered stockbroker.

9 Q. You turned away --

10 A. I was a registered stock broker.

11 Q. Okay. And what did that mean you could do?

12 A. I could buy and sell securities for clients: Stocks,
13 bonds, mutual funds.

14 Q. And you did that for a period of years?

15 A. Yes.

16 Q. Did you do that on your own, or did you work for
17 companies?

18 A. I worked for a company.

19 Q. And what was the company?

20 A. I worked for A.G. Edwards and McDonnell Investment.

21 Q. Okay. And how many years did you do that for?

22 A. Two or three.

23 Q. And in what time frame, approximately?

24 A. '96 to '99.

25 Q. Okay. So just a little before the time period that these

1 investments took place?

2 A. Yes, sir.

3 Q. So I take it to get your Series 7, you had to go through
4 certain testing and requirements, correct?

5 A. Correct.

6 Q. So you understood what that was all about?

7 A. Yes.

8 Q. Could you still function in some -- in providing financial
9 advice, even though you couldn't do it as a registered advisor,
10 could you do that? Or what was the situation? When you
11 were -- '99 to 2000 after you let it lapse?

12 A. Um, I'm not quite sure what you mean. Could I give you
13 advice? I could say yes I could tell people.

14 Q. Right, but you couldn't do it in the context of actually
15 trading --

16 A. Correct.

17 Q. -- stocks and so forth?

18 A. That's right.

19 Q. Okay. Were you doing that at the time, '99/2000, once you
20 let your license lapse? Or what were you doing for employment?

21 A. I was finding customers, clients for Michael. I had been
22 trying to just -- basically trying to find -- raise capital.

23 Q. And were you doing other things besides that in terms of
24 working with Mr. Heshelman? Were you a farmer, or were you --
25 were you doing anything else for employment?

1 A. No.

2 Q. Did you go back to get a different job at some point in
3 time?

4 A. I've tried continually.

5 Q. Okay. Do you have employment currently --

6 A. Yes.

7 Q. -- or recently with Barrington Capital?

8 A. It's not employment. I'm doing a -- I work with them in a
9 commodities business, and I also am working on a -- with a
10 company that is going to do stock promotions for small
11 companies.

12 Q. And Barrington Capital, they are out of New York?

13 A. Out of Florida.

14 Q. Oh, they are out of Florida. I'm sorry.

15 A. Yes.

16 Q. Okay. And you live down in Florida now, correct?

17 A. Yes, sir.

18 Q. And what's this other company besides Barrington Capital
19 that you're working with?

20 A. It's a company that we're finding customers that we'll do
21 stock promotion with to tell their stories, to promote the
22 stock.

23 Q. Okay. Do you remember the name of that company?

24 A. Yes. Heitzman Holding Company.

25 Q. Where are they out of?

1 A. Florida.

2 Q. So is it fair to say for some period of the last 15 or 20
3 years, maybe longer, feel free to correct me, in some capacity
4 you've been involved with the financial arena?

5 A. Yeah, for 10 years.

6 Q. For 10 years?

7 A. Yes.

8 Q. Isn't it a little longer than that since you had your
9 Series 7 license going back to '96?

10 A. Yeah, I guess so. I . . .

11 Q. Okay. And as far as you're aware, Mr. Heshelman never had
12 a securities license, correct?

13 A. Correct.

14 Q. And you were -- were you the only person involved with
15 this investments that had that training and that registration
16 at some point as far as you're aware?

17 A. I don't know.

18 Q. You don't know whether Mr. Mickelson ever did or anybody
19 else?

20 A. I'm not aware.

21 Q. Okay.

22 A. Mr. Tringham said that he had worked for Barclays Bank for
23 several years.

24 Q. Mr. Tringham?

25 A. Tringham. Said he was a -- and I believe it was

1 Barclays Bank that he had worked for.

2 Q. Okay. Did you believe him when he said that?

3 A. I had no reason not to believe him.

4 Q. Okay. Now, let's talk a little bit about the claims or
5 lawsuits, that kind of thing, that may or may not have arisen
6 out of the investments that were here.

7 Now, we heard that there was at least a foreclosure-type
8 proceeding involving your home, correct?

9 A. Correct.

10 Q. And that was between you and your wife and Mr. Moody?

11 A. Correct.

12 Q. And ultimately he obtained your home, but by that point in
13 time you had already put another mortgage on it, correct?

14 A. Correct.

15 Q. Other than that, did anybody -- any of the investors you
16 brought to the table, anybody, did anybody sue you?

17 A. Um, any other investors? Not that I'm aware of. I don't
18 think so.

19 Q. Did Mr. Ramsey sue you?

20 A. No.

21 Q. Mr. Clyde?

22 A. No.

23 Q. Mr. Oliver?

24 A. I --

25 Q. I don't think you know Mr. Oliver maybe. But as far as

1 you're aware, nobody has brought a lawsuit against you?

2 A. Correct.

3 Q. Are you aware of any lawsuits being brought against
4 Mr. Warner?

5 A. No. I have had no contact with him.

6 Q. Okay. Are you aware of whether any civil lawsuits or
7 claims have been brought against Mr. Heshelman?

8 A. I have no idea.

9 Q. How about against Mr. Mickelson?

10 A. I have no idea.

11 Q. Now, I believe during direct -- feel free to correct me if
12 I get this wrong -- your recollection was you were not sure
13 whether Mr. Moody had ever actually asked for his money back;
14 is that correct?

15 A. I think that's correct.

16 Q. Okay. And I take it that means you never received any --
17 "you" meaning you personally -- ever received any written
18 requests for the money back from Mr. Moody?

19 A. Not that I can recollect.

20 Q. And do you recall ever seeing a written request for his
21 money back, meaning Mr. Moody, that was made to Mr. Warner?

22 A. I have no way of knowing that.

23 Q. Okay. And do you recall whether you ever saw any written
24 request made by Mr. Moody for his money back made to
25 Mr. Heshelman or Investors First the company?

1 A. I have no idea.

2 Q. You don't know one way or the other?

3 A. That's correct.

4 Q. Now, do you recall in the joint venture-type agreements,
5 these promissory notes, do you recall that the investors signed
6 those?

7 A. Yes.

8 Q. Okay. And do you recall in there that there was a
9 procedure, cease and desist letter, demand letter, this type of
10 thing that they could request their money back?

11 A. Yes.

12 Q. And again, you don't recall seeing Mr. Moody or any
13 investor that type of cease and desist letter ever coming in?

14 A. I didn't ever see any. Mr. Ramsey told me he had sent
15 one.

16 Q. But you never saw a copy?

17 A. I never saw a copy. Um . . .

18 Q. Go ahead.

19 A. I've seen one, I think -- I think I've seen one since
20 then.

21 Q. Okay.

22 A. But I can't remember. We went through all these
23 documents, and I'm not sure if there was -- but Mr. Ramsey had
24 told me he had sent a cease and desist and asked for his money
25 back. But I have not seen that document.

1 Q. Okay. Now, you're aware that some of the investors did
2 get their money back. Are you aware of that now?

3 A. Um, just what I saw in the paperwork on the bank
4 statements.

5 Q. Okay. Let's look at one.

6 Kathy, if you can bring up 12 -- Government Exhibit 12B,
7 please.

8 This is the first page. I think we're going to end up
9 looking at three of them.

10 Now, again, your best recollection was you were not
11 involved with the Tim Oliver Prism deal, at least directly,
12 correct?

13 A. Correct.

14 Q. But if we go to page 3, please, do you see the deposit
15 amount?

16 MR. MEKARU: Your Honor, then I'm going to object.
17 If this witness has no knowledge regarding anything that has to
18 do with Mr. Oliver or Prism Mortgage, then why are we asking
19 him about that activity?

20 MR. TRACY: He says he wasn't involved with the deal.
21 I'm asking whether he knew or not whether the return came or
22 not. It's going to be a very easy question for him to answer
23 he does or he doesn't.

24 THE COURT: Well, I'm sure -- he just said he doesn't
25 know anything about it, so how can he answer that question in

1 the affirmative?

2 MR. TRACY: He could have not been involved with
3 making the Oliver deal and still know whether or not money went
4 back to him. It's -- the follow-up question is --

5 THE COURT: Do you know anything about the Oliver
6 deal, Mr. Sherwood?

7 THE WITNESS: No, ma'am.

8 THE COURT: Thank you. Please move on.

9 Q. (BY MR. TRACY) Now, if you could look at what has been
10 marked as Proposed Exhibit V. There's a binder. See the black
11 binder that's next to you? It's the defendant's exhibits.

12 You do know something about the Paul Ramsey deal, correct?

13 A. Yes.

14 Q. And that's -- this is a joint venture trust agreement
15 between Investors First and Paul Ramsey, correct?

16 A. Which one are we on?

17 Q. "V" as in Victor.

18 A. "V"?

19 Q. Are you there, sir?

20 A. Yes.

21 Q. So again, this is a joint venture trust agreement between
22 Paul Ramsey and Investors First, correct?

23 A. Correct.

24 Q. And this is the type of agreement that you've said you've
25 seen previously involving the investments, correct?

1 A. Correct.

2 Q. And in this one it appears that Mr. Ramsey invested a
3 little over a million dollars, correct?

4 A. Correct.

5 Q. And as part of this there's an agreement that dollars can
6 be used for expenses, correct?

7 A. Correct.

8 MR. MEKARU: Your Honor, is this exhibit in evidence?

9 THE COURT: Not yet.

10 MR. MEKARU: So in terms of questioning about the
11 substance of this exhibit, we're talking about -- asking
12 questions about an exhibit that's not in evidence.

13 THE COURT: Are you offering this exhibit, Mr. Tracy?

14 MR. TRACY: Sure, I can offer it.

15 MR. MEKARU: Then I'm also going to object. I don't
16 see any indication here that this witness participated in this
17 agreement.

18 MR. TRACY: It's fine. Mr. Ramsey is going to take
19 the stand, and the agreement is going to come in at that point.
20 But if we want to quarrel about it, I can go in a different
21 direction.

22 MR. MEKARU: Well, Mr. Ramsey, I think, can testify
23 about it. It sounds like we're asking a witness who doesn't
24 have knowledge about the document.

25 THE COURT: Did you have anything to do with the

1 execution of this agreement, Mr. Sherwood?

2 THE WITNESS: No.

3 THE COURT: Have you ever seen it before this
4 litigation occurred?

5 THE WITNESS: Yes, ma'am.

6 THE COURT: You did?

7 THE WITNESS: Yes.

8 THE COURT: When did you see it?

9 THE WITNESS: I saw it when it was sent to
10 Mr. Ramsey. I saw it -- I saw a copy of what was going to be
11 sent to him.

12 THE COURT: So you were aware of it?

13 THE WITNESS: Yes, ma'am.

14 MR. MEKARU: Okay.

15 THE COURT: It's admitted.

16 Q. (BY MR. TRACY) So if we could publish Exhibit V,
17 Defendant's Exhibit V, Your Honor.

18 Kathy, if you could, now it's been faxed maybe once or
19 twice, the part about step 1. There appears to be a step 1 or
20 2 or whatever. In the middle of the page, please.

21 So it's a little hard to read, but it says there's a
22 million -- 1,080,000, right?

23 A. Yes.

24 Q. And it's talking about it going in, and then it goes on to
25 say \$280,000 is released to the trust for expenses of

1 insurance, attorneys, travel, and the procurement of a bank
2 instrument acceptable to all parties.

3 Am I reading that correctly?

4 A. Yes.

5 Q. Okay. You saw that prior to it going to Mr. Ramsey
6 because you saw a copy of it, correct?

7 A. Correct.

8 Q. And I take it -- did Mr. Ramsey ever object to that to
9 you?

10 A. No, he did not.

11 Q. And this expense-type thing, based on your recollection of
12 other similar agreements, was that in other agreements as well?

13 A. Yes.

14 Q. So \$280,000 out of this portion of the investment for
15 Mr. Ramsey could be used for all of those things --

16 A. Yes.

17 Q. -- correct?

18 A. Yes.

19 Q. And as far as you're aware, were some of those monies used
20 for insurance or Mr. Warner's attorney's fees? Do you know one
21 way or the other?

22 A. No, I do not.

23 Q. Okay. I take it Mr. Heshelman did travel, because he went
24 over to Switzerland.

25 A. Yes.

1 Q. And you know he also traveled to New York?

2 A. Yes.

3 Q. Okay. Now, Mr. Moody's recollection based on his
4 testimony was he never heard anything about expenses.

5 Does your recollection -- is it the same as Mr. Moody's or
6 different?

7 A. I have no idea. I believe we started with the same
8 documents. I'm not -- I can't recall at the time. It's been a
9 long time.

10 Q. Independent of the documents, did you ever have any
11 discussion with Mr. Moody about whether expenses would have to
12 be taken out of the investment?

13 A. No.

14 Q. You don't recall having such a discussion?

15 A. I do not recall the discussion.

16 Q. Do you recall him ever asking about it?

17 A. Yes.

18 Q. And what did you tell him?

19 A. It was on -- I don't know if it was -- it was not on the
20 first deposit he made but on the second.

21 Q. Okay. So his first deposit was of a million dollars in
22 December of 2000, correct?

23 A. Correct.

24 Q. And the second one was a million and a half in March of
25 2001?

1 A. Correct.

2 Q. You're saying what, in advance of the second one there was
3 some questions about expenses?

4 A. He had asked if there would be -- what would be taken out
5 of that million and a half dollars.

6 Q. And he asked that of whom? You?

7 A. Of me.

8 Q. Anybody else present when it was asked?

9 A. I can't -- I do not know if anyone else was present. I
10 think we were alone.

11 Q. Okay. So this meeting took place sometime January,
12 February, or early March of 2001?

13 A. Yes.

14 Q. Okay. And as far as you recall, was it a meeting in
15 person?

16 A. Yes, we were together.

17 Q. Okay. And what is your recollection in terms of what you
18 told him?

19 A. I told him that the money would be held for only one
20 purpose and that it would not be used for anything else.

21 Q. So you told -- your statement to him was that it would not
22 be used for expenses?

23 A. Correct.

24 Q. So you lied to him?

25 A. Yes, sir.

1 Q. And you knew based on other people's agreements that
2 monies could be used for expenses?

3 A. Yes.

4 Q. Now, in the same binder -- if you still have the black one
5 in front of you, correct?

6 A. Yes.

7 Q. Exhibit B, Proposed Exhibit B --

8 THE COURT: "B" as in boy?

9 MR. TRACY: Yes, Your Honor, thank you, "B" as in
10 boy.

11 Q. (BY MR. TRACY) Have you ever seen this article before
12 that is called, "An Introduction to Bank Debenture Trading
13 Programs"? And just so you know, behind B is Exhibit B1 which
14 is just a larger-print version of the same article.

15 A. Thank you. Thank you.

16 Q. But if you would have seen it, it would probably be in the
17 form of the first Exhibit B.

18 A. I -- I don't think I've seen this before.

19 Q. Okay. Just to test your recollection a little bit on it,
20 this may have something to do with some documents that
21 Mr. Clyde or Mr. Jepson gathered about the time that Mr. Clyde
22 was making his investment.

23 Does that refresh your recollection at all?

24 A. Um, no, I -- I had done some research and was trying to
25 find information, but I can't remember if I saw this document

1 or not.

2 Q. Okay.

3 A. I'd have to look at it in more detail.

4 Q. Okay. We'll leave it at that for now. Thank you.

5 Now, all of the investments that were made by the various
6 people, was Mr. Moody's amongst the last ones?

7 A. Yes. Yes.

8 Q. March of 2001?

9 A. Yes.

10 Q. So no money -- new money came in after that; is that
11 correct?

12 A. That's what I can recollect.

13 Q. Okay.

14 A. I did not have any other contracts that I'm aware of.

15 Q. And after that fact, you never tried to go back and get
16 new money from Mr. Moody?

17 A. After -- after the million and a half?

18 Q. After the million and a half.

19 A. No, I did not.

20 Q. You didn't go back to Mr. Ramsey for new money?

21 A. No.

22 Q. You didn't go back to Mr. Clyde for new money?

23 A. No.

24 Q. And as far as you're aware, did Mr. Heshelman ever do
25 that?

1 A. I would have no way of knowing that.

2 Q. Okay. But to your recollection, do you recall from
3 talking to these people, did any of them put new money in after
4 roughly March of 2001?

5 A. No.

6 Q. Now, on your direct we heard about some other deals that
7 didn't go so well for you that had, as I understood it, nothing
8 to do with Mr. Heshelman.

9 A. Correct.

10 Q. For example, this Chuck Bunting deal Mr. Heshelman knew
11 nothing about, correct?

12 A. Correct.

13 Q. That took place, what, in the '06-'07 time frame?

14 A. Yes.

15 Q. And one of the deals with Mr. Bunting, what was it for,
16 \$40,000 or something?

17 A. Yes.

18 Q. Did Rameel Robinson get involved in that somehow, or did
19 you use his name?

20 A. Yes.

21 Q. That's a former 1989 University of Michigan basketball
22 player when they won the championship, right?

23 A. Right.

24 Q. Do you even know Rameel Robinson?

25 A. No.

1 Q. So you told Mr. Bunting that, what, Mr. Robinson was short
2 on some cash for a deal down in Florida?

3 A. Yes.

4 Q. And you got that 40 grand from him?

5 A. Yes.

6 Q. I take it none of it has been paid back?

7 A. A small amount had been paid back. Not much.

8 Q. You paid him like a thousand dollars last week?

9 A. Yes.

10 Q. And then you also got Mr. Bunting or his partners involved
11 with another \$150,000 deal?

12 A. I didn't know it was that much.

13 Q. Okay. How much did you think it was?

14 A. I had thought it was between 75 and a hundred thousand
15 dollars.

16 Q. Okay. But that one has also gone by the wayside?

17 A. I don't know. I believe so.

18 Q. Okay. And then this Denise Du Val. I believe it's D-U
19 space capital V as in Victor A-L; is that right?

20 A. That's right.

21 Q. She was somebody else? She had something to do with
22 HumaniGroup International?

23 A. Yes.

24 Q. So that's H-U-M-A-N-I and then G-R-O-U-P, all one word,
25 HumaniGroup International?

1 A. Yes.

2 Q. And this goes back to what, the '05-'06 time frame as
3 well?

4 A. Yes.

5 Q. Okay. So Exhibit H, Proposed Exhibit H, for example, if
6 you can turn to that in your black binder. And there's sort of
7 a group of pages here. The first page of Proposed Exhibit H,
8 is that some emails --

9 A. Uh-huh.

10 Q. -- back and forth between you and Denise?

11 A. Yes.

12 Q. And you were giving her what, some update about the
13 investment, and she's inquiring about it?

14 A. Yes.

15 Q. Okay. And these emails are from January 25 of '06,
16 correct?

17 A. Yes.

18 Q. And then the second page, this is a letter sent by
19 certified mail on the HumaniGroup stationary; is that correct?

20 A. Yes.

21 Q. And this one is dated January 31 of '06?

22 A. Yes.

23 Q. And it's from Denise to you?

24 A. Yes.

25 Q. And again, this pertains to her requesting monies back?

1 A. Yes.

2 Q. And the third page of the letter, this one is from a
3 Caesar Gaton, G-A-T-O-N?

4 A. Yes.

5 Q. Did you know who that was?

6 A. That was an associate of Denise Du Val's.

7 Q. So he was involved with the investment as well?

8 A. Yes.

9 Q. And he's authorizing Denise to do what she needs to do to
10 intervene on behalf of getting the money back?

11 A. Yes.

12 Q. Now, in here it seems like -- on direct you said something
13 about the investment being 12,000 or something. Here it's
14 talking about 25,000. What's your recollection on that?

15 A. There was -- Mr. Gaton had put in \$25,000, I believe.

16 Q. So the total investment was actually --

17 A. Thirty-seven, yeah.

18 Q. So 12,000 pertaining to Denise Du Val and the
19 HumaniGroup --

20 A. Yes.

21 Q. -- and then an additional 25,000 from Mr. Gaton?

22 A. Yes.

23 Q. And none of that got paid back?

24 A. Correct.

25 Q. And then the final page of Proposed Exhibit H, another set

1 of emails between you and Miss Du Val, correct?

2 A. Correct.

3 Q. And these are in the July 2006 time period?

4 A. Yes.

5 Q. And you've seen all these documents before?

6 A. Yes.

7 MR. TRACY: Your Honor, I would move for the
8 admission of Defense Exhibit H.

9 THE COURT: Mr. Mekar.

10 MR. MEKARU: No objection.

11 THE COURT: It's admitted.

12 Q. (BY MR. TRACY) Now, I don't think we got quite sufficient
13 details, at least for me, as it pertains to Mr. Fodor. Is it
14 F-O-D-O-R?

15 A. Yes.

16 Q. Peter is his first name?

17 A. Yes.

18 Q. Now, I heard you describe it on direct. In addition to
19 maybe making some investment either directly or indirectly into
20 the investments with Mr. Heshelman, he also invested a separate
21 million dollars with you?

22 A. Yes.

23 Q. What was that for? What was he investing in?

24 A. We were -- I had told him the same story I told Michael, I
25 mean, that we had used, and I was using that story to raise

1 capital myself.

2 Q. Okay. But did you -- were you over in Switzerland and
3 doing any of that?

4 A. No.

5 Q. Okay. So instead of bringing an additional million
6 dollars -- I take it Investors First would have been happy with
7 another million dollars to use, right?

8 A. Right.

9 Q. So is this like the old expression, "There's no honor
10 among thieves" or something? Or what's the point? Why weren't
11 you putting it -- if you're feeling like you're scamming
12 somebody, why aren't you putting the million dollars into
13 Investors First if you thought that was just all a scam anyway?

14 A. I didn't do it. I didn't want to.

15 Q. So you were keeping it for yourself?

16 A. Yes.

17 Q. Okay. But in reality Mr. Heshelman was in New York City
18 in meetings and so forth with Mitch Miller and others, correct?

19 A. Yes.

20 Q. And he was living and had a business over in Switzerland,
21 in Zurich, correct?

22 A. Yes.

23 Q. You didn't have any of those things?

24 A. Correct.

25 Q. Now, what happened to Mr. Fodor's million dollars that he

1 invested with you?

2 A. Well, the money came from -- I did not meet Mr. Fodor
3 until seven years later.

4 Q. Okay.

5 A. But it came through Larry Telford, and I used the funds to
6 buy a house.

7 Q. That's the money you used to buy the house?

8 A. Yes.

9 Q. Did you ever pay Mr. Fodor back any of his money?

10 A. No.

11 Q. You gave him promissory notes and the like?

12 A. Yes.

13 Q. But those ended up being worth nothing?

14 A. Correct.

15 Q. Do you know whether Mr. Fodor got any of his investment
16 back that he invested with Mr. Heshelman?

17 A. I do not know.

18 Q. Now, if we could bring up Government Exhibit 6C, Kathy.
19 Kind of like we did this morning with Mr. Vos. And if you can
20 catch like the last four or five lines there. That's okay.
21 That's fine. We can stay there for a second.

22 This is the first thing of 6C, and Mr. Vos is the FBI --
23 just so you understand the context, Mr. Sherwood -- he
24 testified this morning that he created spreadsheets or summary
25 charts off of Mr. Warner's -- amongst other things --

1 Mr. Warner's trust account so he could know where monies were
2 flowing, okay? So that's what we're going to be looking at.

3 So if we go to the second page, and you see how the name
4 Kennedy Funding, Inc. is highlighted there?

5 A. Yes.

6 Q. And there's a wire from Mr. Warner's trust account in
7 October of '99 for \$250,000 to Kennedy Funding. Do you see
8 that?

9 A. Yes.

10 Q. Do you know what Kennedy Funding is?

11 A. I know what they are, yes.

12 Q. What are they?

13 A. They are a mortgage company, a funding company.

14 Q. Okay. And they are out of New Jersey?

15 A. I believe so.

16 Q. Okay. If you look at Proposed Defendant's Exhibit U,
17 which are some excerpts from Kennedy Funding's website. Have
18 you ever gone to their website before?

19 A. Yes.

20 Q. Okay. It's something you've looked at?

21 A. Yes.

22 Q. Does the -- there's three pages here. There's the home
23 page, and then there's an overview of the company is page 2,
24 and then there's our story on page 3.

25 Have you looked at this stuff before?

1 A. Yes.

2 Q. The background of Kennedy Funding?

3 A. Yes, I've seen this.

4 Q. Okay. Does this purport to be essentially in the same
5 format or basic form that you see on their website?

6 A. I believe so.

7 MR. TRACY: Okay. Your Honor, I move for the
8 admission of Defense Exhibit U.

9 THE COURT: Mr. Mekar.

10 MR. MEKARU: I guess my problem is, again, it's just
11 a foundation here. I'll tell you what, that's fine, let's just
12 move for the admission. We'll talk about this twice. That's
13 fine. No objection.

14 THE COURT: I have some real serious questions about
15 this exhibit, Mr. Tracy. I really, on a number of levels, I
16 really don't see the foundation, the necessary foundation. So
17 even though the government seems not to have an objection, I
18 just have some serious questions about your foundation on this.

19 I mean, you can take all kinds of things off the
20 Internet. We've talked to the jury about not doing this exact
21 kind of thing.

22 MR. TRACY: But they are not doing it, Your Honor.
23 We have done it with the witness who has looked at it himself.
24 I can ask him questions independently, but I've moved for the
25 admission, and there's no objection, so if the Court is not

1 going to let it in, then I'll move on.

2 *THE COURT:* That's the ruling. It's not in.

3 Q. (BY MR. TRACY) Okay. Are you aware that Kennedy Funding
4 was founded back in the 1980s?

5 A. I have no idea when they were founded.

6 Q. Okay. But you've heard of them in your --

7 A. Yes.

8 Q. -- in your circles in terms of what you've done in the
9 financial arena?

10 A. Yes.

11 Q. This \$250,000 that was wired through Mr. Warner's account
12 to Kennedy Funding, were you involved with that?

13 A. I don't think so.

14 Q. Okay. Do you know what the purpose was for sending them
15 the money related to any investment or anything?

16 A. No.

17 Q. Okay. Did you ever happen to hear anything after that
18 investment was made pertaining to any status of anything with
19 Kennedy Funding?

20 A. Not that I can recollect.

21 Q. Okay. If we could go to the next page, please.

22 Now, in the middle of the page there you see highlighted
23 in December, later December -- well, the day before Christmas
24 in '99, a \$150,000 wire transfer over to Merrill Lynch.

25 You know who Merrill Lynch is?

1 A. Yes.

2 Q. Do you know whether or not there was any investment
3 platforms, trading-type things going on with Merrill Lynch?

4 A. No.

5 Q. You don't know one way or the other.

6 Okay. Okay. If we could go to page 5 of 9. And first,
7 Kathy, if we could start at the top of the page, that first
8 four or five of them, please.

9 So you'll see again on June 23 a wire going of 35,000 over
10 to Merrill Lynch, correct?

11 A. Yes.

12 Q. And then below that you see \$500,000 going to
13 Environmental Training Institute. Do you see that?

14 A. Yes.

15 Q. Do you know anything about any investments being made for
16 a trading platform, that type of thing, through Environmental
17 Training Institute?

18 A. No.

19 Q. And then if we go -- span out again, we go to the bottom
20 of the page, this October 2000 million-dollar investment going
21 to Puffin Investment Company. Do you see that?

22 A. Yes.

23 Q. And were you aware that a gentleman by the name of
24 Alan Shepherd was associated with Puffin Investment?

25 A. I know that now.

1 Q. And how do you know that now?

2 A. I was asked that question two or -- two or three weeks
3 ago.

4 Q. In preparation for this?

5 A. Yeah. When I was going through my plea agreement.

6 Q. Okay. And you know that now, but you didn't know it back
7 in the 2000 time period?

8 A. No.

9 Q. So you don't know whether or not the million dollars being
10 sent to Puffin had something to do again with an investment
11 platform, trading platform-type thing?

12 A. No, I don't.

13 Q. Could you look at Proposed Defendant Exhibit R that's in
14 the black binder in front of you, please.

15 A. Yes, I have it.

16 Q. Okay. Mr. Moody previously testified that Charles Pinney
17 approached him, and Charles Pinney indicated that he would pay
18 Mr. Moody \$18,000 if Mr. Moody would get the government to back
19 away from its investigation of you.

20 Were you aware of that?

21 A. No.

22 Q. Do you know who Charles Pinney is?

23 A. Yes, I do.

24 Q. He's a friend of yours?

25 A. No.

1 Q. Somebody you know how?

2 A. We were managing a 4X trading account for him.

3 Q. What does that mean?

4 A. I was trading currency for Mr. Pinney.

5 Q. When?

6 A. 2003 or '4.

7 Q. Okay. So after the investments were made by Mr. Moody but
8 still during the period of time that you were speaking with
9 him?

10 A. Yes.

11 Q. Okay. And did you ever see a copy of this Defendant's
12 Exhibit R before?

13 A. No, I did not.

14 Q. You've never seen it?

15 A. No, sir.

16 Q. You're referred to in it, correct?

17 A. Yes.

18 Q. Okay. But nothing that ever crossed your desk?

19 A. That's correct.

20 Q. Okay. Do you know whether Mr. Mickelson also knew
21 Charles Pinney?

22 A. Yes, he did.

23 Q. And how did he know him?

24 A. I don't know how he knew him. He introduced me to him.

25 Q. Okay. As far as you are aware, did Mr. Heshelman ever

1 know Mr. Pinney?

2 A. I think -- yes, I think they spoke after the fact, after
3 this happened, after . . .

4 Q. But you don't know for sure one way or the other?

5 A. Yeah, I know that Michael knows him. I know
6 Michael Heshelman knows him.

7 Q. Okay. But the two of them, Mr. Pinney and Mr. Heshelman,
8 weren't involved --

9 A. That's correct.

10 Q. -- the way you and Mr. Pinney were?

11 A. That's correct.

12 Q. Now, Government Exhibit 3 -- if we can bring that up,
13 Kathy, please.

14 We saw this -- maybe it will be okay on the screen,
15 Mr. Sherwood. We saw this during your direct, correct?

16 A. Yes.

17 Q. Now, you described it as an email, I believe, right?

18 A. Um, it was an email or an attachment to an email.

19 Q. Because there's no email addresses here, but this could
20 have been an attachment to an email?

21 A. That's correct.

22 Q. But this is between you and Mr. Warner. That's the "Ken"
23 in here, right?

24 A. That's correct.

25 Q. And there's no indication on this that there was any copy

1 that was sent to Mr. Heshelman, correct?

2 A. Um . . .

3 Q. I'm just asking on this document.

4 A. On this document, no.

5 Q. Okay. And these are instructions that you sent to
6 Mr. Warner regarding payments to be made, correct?

7 A. Yes, sir. Yes, sir.

8 Q. Now, the account in question where these monies are coming
9 out of, that's Mr. Warner's account, correct?

10 A. Correct.

11 Q. It's his trust account?

12 A. Correct.

13 Q. It's not an escrow account, it's a trust account?

14 A. Yes.

15 Q. And so the only person with authority over that account is
16 Ken Warner?

17 A. Yes.

18 Q. Not Michael Heshelman, correct?

19 A. I would assume that, yes.

20 Q. Not Bryce Sherwood?

21 A. Correct.

22 Q. And in this attachment or email, whatever it was, there
23 are no monies going to Mr. Heshelman, correct?

24 A. That's correct.

25 Q. There's monies going to you and Mr. Mickelson and to

1 others, but nothing is going on to Michael, correct?

2 A. Correct.

3 Q. Now, if we can also bring up Government Exhibit 1, please,
4 Kathy.

5 You can -- also, I didn't -- except this one, it can be
6 closed and just bring up 1. I'm sorry.

7 Now, this is another one of those trust agreements or
8 promissory notes somewhat similar to one we saw with Ramsey
9 earlier, correct?

10 A. Yeah. I'd like to see it closer, but yes.

11 Q. Okay. Go ahead. Just tell me when you have the binder in
12 front of you.

13 A. Yes.

14 Q. This one involves Mr. Moody, though?

15 A. Yes.

16 Q. And if we go to, I believe it's page 3, this one is
17 signed. I mean, have you seen Mr. Heshelman's signature
18 before?

19 A. Yes.

20 Q. Does that appear to be his signature?

21 A. Yes.

22 Q. And it looks like you witnessed it, correct?

23 A. Yes.

24 Q. Is that your signature?

25 A. Yes.

1 Q. And then it looks like Mr. Moody's signature. Does that
2 appear to be his from seeing it before?

3 A. Yes.

4 Q. And here at the bottom it says -- if we can scan out on
5 the bold stuff with Ken Warner. Thank you.

6 Kenneth Warner Attorney at Law Trust Account, correct?

7 A. Correct.

8 Q. It doesn't say anything about an escrow account, correct?

9 A. Correct.

10 Q. Now, did you tell Mr. Moody something about an escrow
11 account?

12 A. I can't remember if it's an escrow account or trust
13 account at this time. I think I said escrow account.

14 Q. Okay. But that would have been your mistake?

15 A. Yes.

16 Q. Because it's a trust account?

17 A. Yes.

18 Q. And that's not something Mr. Heshelman told you to tell
19 him, that's just a mistake you made?

20 A. If I made that mistake.

21 Q. Okay. Now, just briefly on this humanitarian stuff that
22 came up on your direct, because we didn't get into the detail
23 of that very much. I take it that doing humanitarian projects,
24 that's fine, right? You don't have any quarrel with that?

25 A. That's correct.

1 Q. And if monies were returned out of the investments, was
2 the game plan that some of the monies could be returned to the
3 investors but that some monies would also be available for
4 quote-unquote humanitarian projects?

5 A. Yes.

6 Q. And was the strategy related to that a tax strategy? In
7 other words, let me flesh that out so you know where I'm going.

8 If \$20 million was coming back to Mr. Moody and he wanted
9 to take 10 million of it directly but then 10 million of it
10 going towards a humanitarian project, had some advice been
11 given that that might be a tax strategy to avoid income that
12 would be attributed to him?

13 A. I don't know.

14 Q. You didn't investigate that?

15 A. No. There was --

16 Q. Go ahead.

17 A. There was a comment made that the particular money would
18 go to charity or nonprofit organizations or humanitarian
19 projects, but I don't remember -- I did not give tax advice.

20 Q. Okay. Proposed Exhibit Q in the black binder,
21 Defense Exhibit Q, is this a bank statement you've seen before?

22 A. Yes.

23 Q. From TCF Bank?

24 A. Yes. Yes.

25 Q. In Ann Arbor, correct?

1 A. Correct.

2 Q. This is in your name?

3 A. Yes.

4 Q. And also in Larry Telford's name?

5 A. Yes.

6 Q. And the first page appears to be a page from a
7 September 19th, 2000, statement, correct?

8 A. Correct.

9 Q. And the second page, is that just perhaps a continuation
10 of that?

11 A. I would believe so.

12 Q. And then the third page, it's got I think it's a
13 government page number at the bottom, 236.

14 A. Yes.

15 Q. This is a portion of the statement or maybe the whole
16 statement from October 18th of 2000, correct?

17 A. Correct.

18 Q. And this is again relating to an account of yours?

19 A. Yes.

20 MR. TRACY: Okay. I would move for the admission
21 of Defense Exhibit 2.

22 THE COURT: Mr. Mekaru.

23 MR. MEKARU: Your Honor, we really haven't laid a
24 foundation for this. The relevance of this I think is getting
25 far afield. We've already had lots of testimony about the fact

1 that this witness took money from these individuals, even more
2 documents on it, but I think we're getting a little far afield
3 from what's at issue here. I think he's admitted he's lied and
4 stole from other people.

5 *THE COURT:* Well, in looking at these bank
6 statements, Mr. Tracy, I'm having a hard time seeing the
7 relevance to this case.

8 *MR. TRACY:* Well, Larry Telford is on there,
9 Your Honor, and the government brought him up during the
10 direct, and we don't know much about him, and now he and
11 Mr. Sherwood are on an account together. I think I'm entitled
12 to ask about him.

13 *THE COURT:* Well, you can ask him about Mr. Telford.
14 I just don't see what the record has to do --

15 *MR. TRACY:* That's fine. The government has about
16 five inches of bank statements, and I'm trying to get in three
17 pages, but that's fine. I think this is the only bank
18 statement I have, Your Honor. And my binder is nice and small,
19 and they have two of them, but okay.

20 *Q. (BY MR. TRACY)* Why were you on a bank statement with
21 Larry Telford?

22 *A.* We were trying to do some things together.

23 *Q.* And what did these things involve?

24 *A.* We were trying to find other investments we could make.

25 *Q.* That related to what?

1 A. That related to trying to recover and to find a way to
2 make money to recover the losses.

3 Q. Losses related to all of this?

4 A. To the money that they put in with -- that he put in with
5 Michael.

6 Q. Okay. So you were trying to find a recovery?

7 A. Yes.

8 Q. Just like Mr. Heshelman, as far as you were aware, was
9 trying to do same thing and get a return in his efforts in
10 New York and Switzerland, correct? As far as you knew, that's
11 what he was trying to do?

12 A. Yes.

13 Q. Okay. Now let's just end with the bus, for example. And
14 maybe your memory is not as good as Mr. Moody's. But I believe
15 on direct you said that the discussions related to this bus
16 occurred between Mr. Moody and Mr. Heshelman and you weren't
17 hardly involved.

18 A. I didn't say I was not hardly involved.

19 Q. Okay. What's the scenario then?

20 A. Mr. Moody came and wanted to talk about the need for a bus
21 for the church, and he wanted -- and the church -- he had a
22 very successful ministry going with the young people, and there
23 was always transportation problems. And he thought that if he
24 could get a bus, it would be good. So we had talked about it,
25 and I can't remember where we talked about it. If it was on

1 the phone or in person.

2 Q. Let me just be careful. Now you're starting to say "we."
3 This is you and Mr. Moody talking?

4 A. I'm sorry, myself and Mr. Moody.

5 Q. No Mr. Heshelman?

6 A. No Mr. Heshelman.

7 Q. He doesn't know anything about it at this point?

8 A. At the first point, no.

9 Q. Okay.

10 A. And I remember saying we needed to talk to -- myself and
11 Mr. Moody would need to talk to Michael about the bus, about
12 getting a bus.

13 Q. Okay. And so your recollection is it had nothing to do
14 with the bus being donated? You don't recall the conversation
15 between you and Mr. Moody?

16 A. No, I said that was the idea, the objective was to have a
17 bus given to the church.

18 Q. Okay. And did you turn him on to some buses that were
19 down in Atlanta for that effect?

20 A. I -- we looked on the Internet. We were searching for
21 buses. I can't -- I can't recall if I showed him some websites
22 or gave him some websites or phone numbers. I don't know if I
23 directly found that bus or not, but I think we found some spots
24 where buses were available.

25 Q. And the "we" would be you and --

1 A. Myself and Mr. Moody.

2 Q. Again, no Mr. Heshelman?

3 A. No Mr. Heshelman.

4 Q. Okay. So at this point in time the discussions were
5 between you and Mr. Moody and that's it?

6 A. That was -- that was the first initial discussion.

7 Q. Okay. And then ultimately sometime later the bus is
8 purchased?

9 A. I want to interrupt if I could. We had an initial
10 discussion, and then there was a discussion passed along, and
11 we talked to -- or as he talked with Mr. Heshelman, I was
12 trying to find some buses available, and I'm not sure if I was
13 the one that found this particular bus or he found it or talked
14 to somebody else or not.

15 Q. Okay. Do you ever recall a conversation with
16 Mr. Heshelman where you raised the issue of the bus and he
17 simply said to you, "Look, if Mr. Moody wants to use his money
18 for that, it's his money, we'll buy the bus and it will be
19 there for the church"? Did you have that conversation with
20 Mr. Heshelman?

21 A. No.

22 Q. You don't ever recall that?

23 A. I do not recall that.

24 MR. TRACY: Nothing further, Your Honor.

25 THE COURT: Mr. Mekaru, do you have any redirect?

1 MR. MEKARU: I'll try to be quick.

2 REDIRECT EXAMINATION

3 BY MR. MEKARU:

4 Q. You were asked questions, let's see, whether Mr. Mickelson
5 gave you any money out of the monies he received. So if he had
6 given you a substantial amount of money, would you have
7 remembered that?

8 A. Yes.

9 Q. Mr. Mickelson. If Mr. Mickelson was giving substantial
10 portions of money, 10,000, \$20,000, would you have remembered
11 something like that?

12 A. Yes.

13 Q. So did that ever happen?

14 A. I do not believe so.

15 Q. Now, counsel was asking about all of these -- about these
16 people who were talking about deals. That Mr. Heshelman is in
17 Switzerland doing deals and talking about deals. And he's in
18 New York City and talking about deals. And he's introducing
19 you to people who are talking about deals. So everything
20 you've heard about all these deals, is that all coming from the
21 oral representations of these people?

22 A. Yes.

23 Q. Did you see any sort of documentation to substantiate that
24 they were actually doing these deals?

25 A. No.

1 Q. Any sort of records? How about monthly account
2 statements?

3 A. No.

4 Q. Any sort of bank statements showing that they have got
5 accounts?

6 A. No, sir.

7 Q. So everything you've heard about all this trading
8 activity, is it just coming from word of mouth from all these
9 people?

10 MR. TRACY: Objection, Your Honor. We went over this
11 ground in direct, and he's covered it already.

12 THE COURT: I think that's correct, Mr. Mekaru.

13 Q. (BY MR. MEKARU) All right. Now, at the times of these
14 meetings with these other individuals, this is on cross, you
15 said that you didn't think that these investments could
16 succeed, right?

17 A. Correct.

18 Q. You said you thought that the yield was too high.

19 A. Correct.

20 Q. That was part of it. And also that the deal was
21 constantly changing.

22 A. Correct.

23 Q. In addition, did you also have some sense that the money
24 was also gone?

25 A. Yes, I did.

1 Q. So there was no money to be had for these deals?

2 A. That is what I believed.

3 Q. Now, counsel had brought up this point that you were a
4 Series 7 license.

5 A. Yes.

6 Q. That's the registered representative licensing.

7 A. Yes, sir.

8 Q. And there's also some tests and examinations, and there
9 are licensing for investment individuals.

10 A. Yes.

11 Q. Series 63 for the multistate, something along those lines.
12 And there may be some registration for certified financial
13 advisors. There may be a whole nother area --

14 A. I did not have that. I did not have that license.

15 Q. You didn't have that, right?

16 A. No, I had a 63 and a 7. And a 63 was a -- and I also had
17 an insurance license.

18 Q. Okay.

19 A. A 63 is not just multistate. It's more of an able to sell
20 brokerage products but not individual securities.

21 Q. So you had some background in these financial instruments?

22 A. Yes.

23 Q. Stocks and bonds. In your training and going through the
24 study for this licensing, and in your experience in the
25 brokerage industry, had you ever done much of anything with

1 this -- these buy/sell agreements and the bonds that
2 Mr. Heshelman was speaking of?

3 A. No, I did not.

4 Q. So the information that you learned about all of this, did
5 this all come pretty much from Michael Heshelman?

6 A. Yes.

7 Q. Now, was he conversant, though, in some of the terminology
8 of the brokerage industry?

9 A. Yes, very.

10 Q. You talked about debentures, tranches. These are all
11 terms of art for securities, right?

12 A. Correct.

13 Q. So did he at least have the aura of understanding some of
14 these instruments?

15 A. Yes.

16 Q. And did he oftentimes pass on that same sort of
17 information to potential investors?

18 A. Yes.

19 Q. And as far as you know he is not a registered
20 representative, he's not a certified financial advisor, he's
21 not licensed in any way.

22 A. Yes.

23 Q. Now, you were also asked a question on cross whether
24 Mr. -- excuse me -- whether Pastor Moody had requested any
25 money back, and you weren't actually sure.

1 He was asking about where his money is and when this deal
2 is going to be done and when he could get some money back.

3 A. Yes.

4 Q. But the words of "Give me my money back" may not have
5 actually been uttered?

6 A. Correct.

7 Q. But any time anybody was asking about getting their money,
8 what were you doing in response?

9 MR. TRACY: Objection, Your Honor, it assumes that
10 somebody did. There's no foundation for that.

11 THE COURT: Well, he's already -- he's testified that
12 Mr. Moody asked for some of his money back. When was he going
13 to get his money back. And I think he testified that some
14 others, including Ms. Du Val -- am I correct about that?

15 MR. TRACY: She's outside the investment, though.

16 THE COURT: Well, I understand that, but . . .

17 MR. TRACY: All right.

18 Q. (BY MR. MEKARU) So when people, Mr. Ramsey, Mr. Moody,
19 other individuals who you had communication with, when they
20 were asking about when is money going to be coming in, whether
21 it be getting their money back or when is the deal going to be
22 done, are asking about getting some sort of return of money
23 coming their direction, weren't you just delaying them and
24 trying to put them off?

25 A. Yes.

1 Q. Every single time?

2 A. Yes.

3 Q. Lulled them into believing the deal is almost going to be
4 done?

5 A. Yes.

6 Q. To avoid that final -- any way you could to avoid that
7 final demand of "I just want to close out"?

8 A. Yes.

9 Q. All right. Now, counsel has gone over a contract here
10 that I think was Defense Exhibit V where Mr. Ramsey's deal
11 included an express provision for expenses, right?

12 A. Yes.

13 Q. And I think counsel covered the fact that there were other
14 contracts with other investors that may have had a similar sort
15 of express provision for expenses, right?

16 A. Correct.

17 Q. But I think as we've gone over, the format, this -- well,
18 would you please call -- thank you.

19 We don't have V. Well, do you have a way to put that
20 Exhibit 1 on one side and V next to it? Or not.

21 Well, the joint venture trust agreement, that language is
22 similar between these two exhibits, right?

23 A. Yes.

24 Q. And in terms of some of the other language about how this
25 is in agreement with Investors -- here we go -- Investors First

1 Ventures, I think even the address is similar, right?

2 A. Yes.

3 Q. All right. And is there some sort of promissory note
4 aspect to Exhibit V? Maybe page 2, if you can go through it.

5 A. I don't have -- on the one on the left I see the
6 promissory note.

7 Q. Yeah.

8 A. Yes. I'm sorry.

9 Q. So it's a different document, right?

10 A. Yes.

11 Q. It's a different type of agreement, right?

12 A. Yes, it is.

13 Q. You don't see anything like that, and you don't see
14 anything in Exhibit Number 1 where there's an agreement for
15 expenses?

16 A. That's correct.

17 Q. So the deal with Mr. Ramsey was different than the deal
18 with Pastor Moody?

19 A. Yes.

20 Q. And your express representation to Pastor Moody -- that's
21 with respect to the first million dollars, right? Contract --
22 Exhibit Number 1, that promissory note, it is for the million
23 dollars, and that's with respect to the December 2000 monetary
24 transaction, right?

25 A. I believe so.

1 Q. All right. And with respect to the \$1.5 million
2 transaction, there was a mortgage that was put on that --

3 A. Right.

4 Q. -- to support that --

5 A. Correct.

6 Q. -- and there was an oral representation that no money
7 would come out of that for expenses?

8 A. Correct.

9 Q. Okay. Just a few more points.

10 There was a comment here about "No honor among thieves."

11 You had used Mr. Heshelman's same story and pitched that
12 to I guess it was Mr. Telford, and ultimately that passed
13 through to Mr. Fodor, right?

14 A. Yes.

15 Q. And the suggestion, though, that since you're the one who
16 pitched it and was able to close that deal, you kept the money
17 to yourself rather than sharing it?

18 A. Yes.

19 Q. So as far as that portion of the deal, did you need
20 Mr. Heshelman's participation to further that deal?

21 A. No.

22 Q. Was there any complaint from Mr. Heshelman that you didn't
23 share any of that money with him?

24 A. No.

25 Q. Did you ever tell him that you got additional money from

1 him?

2 A. No.

3 Q. From him, "him" being Mr. --

4 A. Telford.

5 Q. -- Telford and Mr. Fodor. Okay. No, no, we'll move on.

6 All right. Pull up Exhibit 6C, please.

7 MR. MEKARU: Susan, can we switch over?

8 Q. (BY MR. MEKARU) 6C. All right. This is where we were
9 with counsel on the summary of the -- don't worry about zooming
10 in -- of the statement.

11 Can we go to page 2. All right. Now we're going into the
12 actual transaction activity.

13 Now, counsel was pointing out that there was this
14 Kennedy Funding transaction. It's towards the bottom.

15 MR. MEKARU: If I can have my penlight. Thank you,
16 Harper.

17 Q. (BY MR. MEKARU) Okay. It's October of '99, right,
18 \$250,000? And it was also pointed out that there was this
19 Merrill Lynch in December of '99. That might be on the next --

20 THE CLERK: Keep your voice up.

21 MR. MEKARU: Sorry?

22 THE CLERK: Keep your voice up.

23 Q. (BY MR. MEKARU) December '99 Merrill Lynch. Right?
24 \$150,000. And then we've got, excuse me, August of 2000 --

25 MR. MEKARU: Keep going. Oh, sorry. Back up.

1 You're right.

2 Q. (BY MR. MEKARU) Puffin Investment. All right. And
3 pointing to all these transactions.

4 Mr. Sherwood, all of these transactions, did they all take
5 place prior to Pastor Moody's investments? Pastor Moody's
6 first deposit was in December of 2000. His next one was in
7 March of 2001.

8 A. Yes, according to the ledger they did take place prior to
9 that.

10 Q. So did any of Pastor Moody's money go to any of those
11 entities?

12 A. No.

13 Q. This is all predating anything that has to do with
14 Pastor Moody?

15 A. Correct.

16 Q. We've already, I think, gone over where Pastor Moody's
17 money went, right?

18 A. Yes.

19 Q. So to the extent this has any relevance, it might have
20 some relevance to somebody else's investment but not
21 Pastor Moody's?

22 A. That's correct.

23 Q. You said Kennedy Funding was a mortgage company?

24 A. I believe they are a mortgage company, yes. They do
25 funding on buildings and projects, and they are a bridge loan

1 company.

2 Q. So -- all right. A mortgage company.

3 If in the traditional sense if somebody is a customer of a
4 mortgage company, if they are sending money to a mortgage
5 company, wouldn't it be essentially repaying a loan that they
6 may have had with that mortgage company?

7 A. Yes, but Kennedy Funding charges fees up front to do
8 projects. They have an up-front charge. I'm aware of that not
9 because of this situation, but I know Kennedy Funding does
10 charge for appraisals of sites, and they do that with an
11 up-front charge.

12 Q. So it's a fee, but that's not an investment.

13 A. That's correct.

14 Q. Okay. The instructions that you sent to Ken on
15 Exhibit Number 3. All right. He had asked whether you had any
16 authority on the account. And the only person that can
17 actually move money out of that account was Ken Warner because
18 he was the account holder, right?

19 A. Yes.

20 Q. This is a trust account. This is an attorney trust
21 account. Isn't a trust account being held in trust for his
22 clients?

23 MR. TRACY: Your Honor, we have no foundation that
24 this witness has any understanding of what an attorney trust
25 account is used for. Objection.

1 THE COURT: That objection is sustained.

2 Q. (BY MR. MEKARU) All right. But whose client is
3 Ken Warner's?

4 A. Michael Heshelman.

5 Q. All right. Now, there's this other last point, this
6 question about these humanitarian investments and that
7 discussion.

8 And there was all sorts of talk here about being able to
9 fund some of Pastor Moody's projects.

10 A. Yes.

11 Q. And there's some suggestion that it would have been easier
12 to use some of these deals and more money would be available to
13 fund these humanitarian projects, right?

14 A. Right.

15 Q. Was there some sense, then, that Pastor Moody might be
16 more recipient or more -- excuse me -- more willing to invest
17 this money and delay things with the hope that he would be able
18 to fund these humanitarian efforts as opposed to his own
19 personal benefit?

20 A. I don't quite understand.

21 Q. Did you have some sense here -- were you tapping into
22 Pastor Moody's desire to fund these humanitarian efforts by
23 dangling out the possibility of even larger monies being
24 available for this humanitarian -- these humanitarian projects?

25 A. Yes.

1 Q. Is that something you used to your benefit, that affinity
2 sort of connection?

3 A. Yes.

4 MR. MEKARU: Thank you.

5 THE COURT: Mr. Tracy, do you have any recross?

6 MR. TRACY: Yeah, just real briefly, Your Honor.

7 Thank you.

8 Kathy, if you could do like you did for Dan and bring
9 up Government Exhibit 1 and Defense Exhibit V together.

10 RECROSS-EXAMINATION

11 BY MR. TRACY:

12 Q. And Mr. Sherwood, it may be easier this time for you to
13 look at -- if you have the black binder in front of you with
14 Defendant's Exhibit V and you also keep the white one in front
15 of you with whichever -- the one that's got Government's
16 Exhibit 1 in it. So if you have those close to one another,
17 that would be helpful, I think.

18 So Government Exhibit 1, again, that is involving
19 Mr. Moody, correct?

20 A. Yes. Yes.

21 Q. And that's called Promissory Note and Joint Venture Trust
22 Warranty?

23 A. Yes.

24 Q. And you've seen that before in preparation for this trial?

25 A. Yes.

1 Q. Okay. And then Defense Exhibit V, that's part of the
2 documents that pertain to Mr. Ramsey's investment, correct?

3 A. Yes.

4 Q. So, if you would, flip three pages and go to the fourth
5 page of Defense Exhibit V.

6 A. Okay.

7 Q. Okay? Now let's compare apples to apples. The Moody
8 document; the Ramsey document.

9 Now, these are both promissory notes and joint venture
10 trust warranties, correct?

11 A. Correct.

12 Q. And nowhere in Mr. Ramsey's warranty -- if you flip to the
13 second page, flip to the third page -- nowhere in the
14 promissory note and warranty for Mr. Ramsey does it say
15 anything about the expenses, correct?

16 A. Correct.

17 Q. Okay. Now, when you flip back to the beginning of
18 Defense Exhibit V, which is the joint venture trust agreement
19 for Mr. Ramsey, that's where we get the layout of the expenses
20 that can be used, \$280,000 for this portion of his investment,
21 280 out of the one million some, so nearly 25, 30 percent,
22 correct?

23 A. Correct.

24 Q. That's where that's set forth, right?

25 A. Yes.

1 Q. Now go back to Government Exhibit 1. This is not the
2 joint venture trust agreement. Nowhere in the Government
3 Exhibit 1 is that exhibit included, correct?

4 A. Correct.

5 Q. There's only the promissory note and joint venture trust
6 warranty, correct?

7 A. Correct.

8 Q. Through the government, Special Agent Wetherbee, the
9 attorneys you've met with, have you ever seen the joint venture
10 trust agreement between Mr. Moody and Investor First Ventures?

11 A. No.

12 Q. So as far as we're aware, since we're going to see other
13 ones later for other investors, there very well may be a joint
14 venture trust agreement between Mr. Moody and Investors First,
15 correct?

16 A. I wouldn't know of it.

17 Q. But there were for other investors?

18 A. Yes.

19 Q. But it's not here?

20 A. It's not here.

21 Q. And now, by the way, this Government Exhibit 1, this is
22 for the first million dollars that Mr. Moody invested, correct?

23 A. I believe so, yes.

24 Q. You see where it says "Promissory Note"?

25 A. Yes.

1 Q. \$1 million, correct?

2 A. Yes.

3 Q. There's -- I can't find the date on the document, but this
4 would be the -- appears to be the first one that goes in in
5 December of 2000, right?

6 A. Yes.

7 Q. I'm not seeing the second investment of 1.5 million.
8 Are you?

9 A. No.

10 MR. TRACY: Okay. Thank you very much.

11 THE COURT: Can we excuse Mr. Sherwood?

12 MR. MEKARU: Yes, Your Honor.

13 THE COURT: Thank you, Mr. Sherwood.

14 * * * * *

15 I certify that the foregoing is a correct excerpted
16 transcript from the record of proceedings in the above-entitled
17 matter.

18

19 Date: June 26, 2009

20

21 /s/ Glenda Trexler

22 Glenda Trexler, CSR-1436, RPR, CRR

23

24

25

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<i>GOVT 22 Sherwood Plea Agreement</i>	<i>5</i>	<i>5</i>
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<i>DFT H Emails and letters</i>	<i>99</i>	<i>99</i>
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<i>DFT U Excerpts from Kennedy Funding's website</i>	<i>103</i>	
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